



# City of Harrisonburg, Virginia

## Planning Commission Meeting

May 13, 2009

7:00 p.m.

Regular Meeting  
409 South Main Street

- 1) Call to order, roll call, determination of quorum, and review/approval of minutes from the April 8, 2009 regular meeting and the April 15, 2009 joint meeting with City Council regarding the Comprehensive Plan update.

- 2) New Business

*Special Recognition*

*Special Use Permit – Iglesia Nueva Vida Pentecostes (2009 Renewal)*

Public hearing to consider a request from Abel Castro of Iglesia Nueva Vida Pentecostes for a special use permit per Section 10-3-97 (9) of the Zoning Ordinance to allow a religious use within the M-1, General Industrial District. The property is located at 760 Waterman Drive and can be found on tax map 39-E-7A.

*Alley Closing – Between Dogwood and Willow and Adjacent to 36-R-3, 7, & 11 (Harshberger)*

Consider a request from Dana Joy Harshberger to close a portion of a 15-foot, undeveloped alley between South Dogwood Drive and South Willow Street. The alley is adjacent to tax maps 36-R-3, 7, & 11, all of which are zoned R-2, Residential District.

*Ordinance Amendment – Home Occupation Definition Modification*

Public hearing to consider a request from the City of Harrisonburg to amend Section 10-3-24 of the Zoning Ordinance by modifying the definition of “home occupation.”

- 3) Unfinished Business

*Ordinance Amendment – Home Business Definition & Special Use Additions*

Public hearing to consider a request from Harriet Clare Cobb to amend the Zoning Ordinance Section 10-3-24 to add a definition of Home Business. This modification would also add home businesses as a special use within Sections 10-3-34, 10-3-40, 10-3-46, 10-3-48.4, 10-3-52, 10-3-55.4, 10-3-56.4, 10-3-57.4, 10-3-58.4, and 10-3-180.

*Special Use Permit – 950 Turkey Run Road – Home Business (10-3-34 (9))*

Public hearing to consider a request from Harriet Clare Cobb for a special use permit per Section 10-3-34 (9) of the Zoning Ordinance to allow a home business within the R-1, Single Family Residential District. The property is located at 950 Turkey Run Road and can be found on tax map 22-C-48.

- 4) Public Input

- 5) Report of secretary and committees

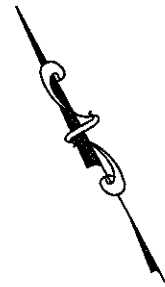
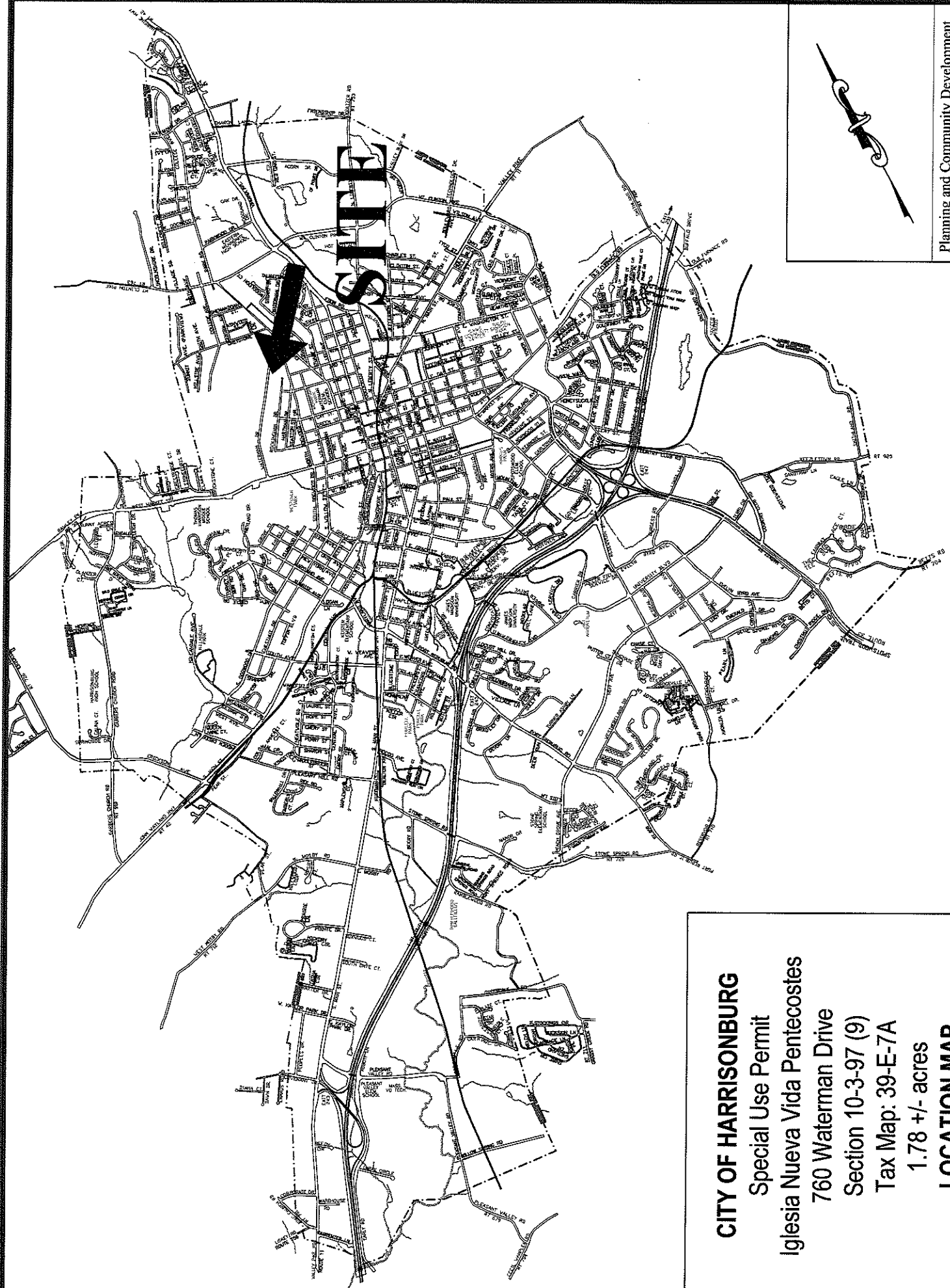
*Proactive Zoning*

- 6) Other Matters

*Poultry Enforcement Discussion*

- 7) Adjournment

Staff will be available Tuesday June 9, 2009 at 2:30 p.m. for those interested in going on a field trip to view the sites for the June 10, 2009 agenda.



Planning and Community Development  
City of Harrisonburg, Virginia

## CITY OF HARRISONBURG

Special Use Permit

Iglesia Nueva Vida Pentecostes

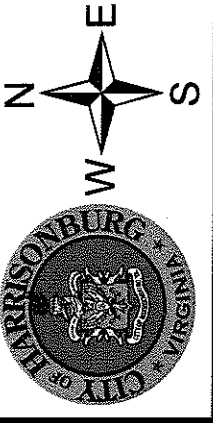
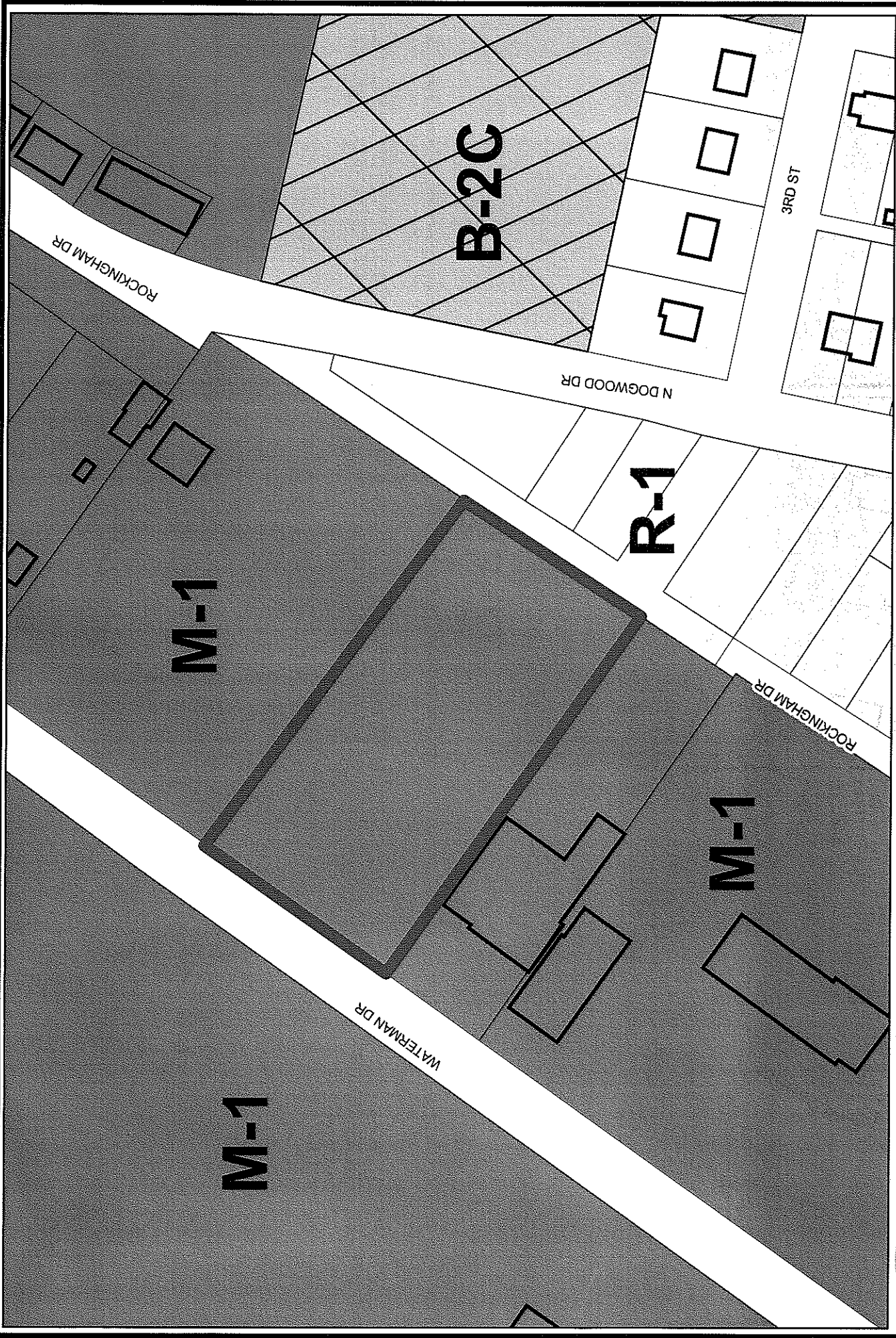
760 Waterman Drive

Section 10-3-97 (9)

Tax Map: 39-E-7A

1.78 +/- acres

**LOCATION MAP**



**Iglesia Nueva Vida Pentecostes**  
**Special Use Permit (10-3-97 (9) Religious Use)**



# City of Harrisonburg, Virginia

DEPARTMENT OF PLANNING AND COMMUNITY DEVELOPMENT

## STAFF REPORT

May 13, 2009

### SPECIAL USE PERMIT – IGLESIA NUEVA VIDA PENTECOSTES (2009 RENEWAL)

#### GENERAL INFORMATION

**Applicant:** Iglesia Nueva Vida Pentecostes (Pastor Abel Castro)  
**Tax Map:** 39-E-7A  
**Acreage:** 1.78 acres  
**Location:** 760 Waterman Drive  
**Request:** Public hearing to consider a request for a special use permit per Section 10-3-97 (9) to allow a religious use within the M-1, General Industrial District

#### LAND USE, ZONING, AND SITE CHARACTERISTICS

The Comprehensive Plan designates this area as Commercial. This designation states that these areas include uses for retail, wholesale, or service functions. These areas are found along major travel corridors and in the Central Business District of the City.

The following land uses are located on and adjacent to the property:

**Site:** Undeveloped land, zoned M-1  
**North:** Waterman Self Storage, zoned M-1  
**East:** Single-family homes and undeveloped land, zoned R-1  
**South:** Hajoca Corporation, zoned M-1  
**West:** Across Waterman Drive, Frazier Quarry, zoned M-1

#### HISTORY

This proposal has appeared before Planning Commission on two previous occasions and on each occurrence it was recommended for approval. In December 2002, Iglesia Nueva Vida Pentecostes requested a special use permit to allow a religious use within the M-1, General Industrial District in order to construct a church at 760 Waterman Drive. Both staff and Planning Commission recommended approval of the request with a condition that adequate exterior lighting is provided to illuminate any parking areas, walkways and entrances to provide security for church patrons. The special use was approved by City Council in January 2003.

The Zoning Ordinance stipulates that, once approved by City Council, the authorized special use shall be established, or any permitted construction shall be commenced and diligently pursued within twelve months from the approval date or within such time as specified by the City Council. Because the applicant did not diligently pursue the construction of the church within twelve months and City Council had not provided any extended time frame, the authorized special use expired.

In early 2007 Iglesia Nueva Vida Pentecostes came back to the City requesting the identical special use permit at the same location. Again, staff and Planning Commission recommended approval with the lighting condition, and City Council granted the special use permit in May 2007. During this process staff pointed out to the applicant that once a special use permit is approved the applicant would have twelve months to begin steps towards construction.

On April 15, 2008, almost a year after approval, a preliminary site plan for the church was submitted to the Fire Department for their review. Fire Department review comments were then returned to the applicant's engineer on April 17, 2008. No further submissions regarding site development were forwarded to the City until February 3, 2009, when the comprehensive site plan was submitted for review. Because of the considerable gap in time from Council approval to the comprehensive site plan submission, the special use permit expired because the applicant failed to diligently pursue their plan of development. Staff informed Iglesia Nueva Vida Pentecostes that the comprehensive site plan review would move forward; however, they would need to renew the special use permit.

### **EVALUATION**

Iglesia Nueva Vida Pentecostes is requesting a special use permit per Section 10-3-97 (9) of the Zoning Ordinance to allow a religious use within the M-1, General Industrial District. The property is located at 760 Waterman Drive, which is just south of the intersection with Chicago Avenue and Waterman Drive. If approved, the applicant desires to construct a 17,450 square foot church on the property. The new building would contain a sanctuary, classrooms, offices, and a kitchen area. The church would not provide housing facilities.

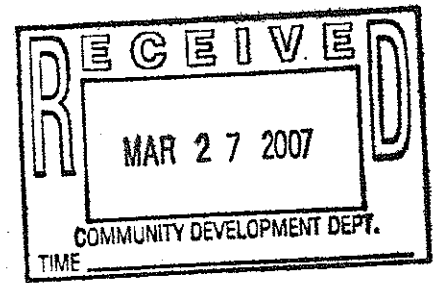
The Comprehensive Plan designates Waterman Drive as Commercial and the vicinity contains both commercial and industrial uses. Because this northern section of Waterman Drive has predominately industrial uses with limited nighttime activities, staff feels that outdoor lighting should be provided to illuminate any parking areas, walkways and entrances in order to provide security for church patrons. Approval is recommended for the special use permit with the condition that exterior lighting is provided for security purposes at any parking, walkway and entrance area.

Currently, the comprehensive site plan for this project is under review by the City; approval for this plan will be withheld until a renewed special use is in place. Through discussions with Public Works regarding traffic, it was determined that because the peak hour volume of traffic occurs on Sunday and is only 101 vehicles per hour (VPH), which is just over the 100 VPH threshold, the applicant would not be required to submit a Traffic Impact Analysis (TIA). However, the City is requesting that right-of-way be dedicated for the future construction of sidewalk; this will be handled as part of the comprehensive site plan approval process.

Staff would like to point out that Section 10-3-130 (c) of the Zoning Ordinance specifies that an authorized special use must be established or construction diligently pursued within twelve months of approval or it expires. However, on March 27, 2009, House Bill 2077 was signed by the Governor, which extends the period of validity for certain preliminary and recorded plats and final site plans, as well as certain other land use approvals, which includes special use permits, to July 1, 2014. The language of HB 2077 dealing with the extension of special use permits is as follows: *Notwithstanding any other provision of this chapter, for any valid special exception, special use permit, or conditional use permit outstanding as of January 1, 2009, and related to new residential or commercial development, any deadline in the exception permit, or in the local zoning ordinance that requires the landowner or developer to commence the project or to incur significant expenses related to improvements for the project within a certain time, shall be extended until July 1, 2014, or longer as*

*agreed to by the locality. The provisions of this subsection shall not apply to any requirement that a use authorized pursuant to a special exception, special use permit, conditional use permit, or other agreement or zoning action be terminated or ended by a certain date or within a set number of years.* Therefore, if approved, Iglesia Nueva Vida Pentecostes would have until July 1, 2014 to commence construction of the authorized special use.

Staff does not have any concerns with a religious use in this area. Although zoned M-1, the industrial uses found along this section of Waterman Drive are not intensive enough that a church could not operate at this location. Staff supports this application with the exterior lighting condition.



March 25, 2007


City of Harrisonburg  
409 South Main Street  
Harrisonburg, VA 22801

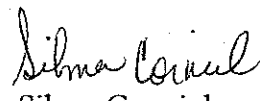
Attention: Department Of Community Development

To Whom It May Concern:

Iglesia Nueva Vida Pentecostal is requesting a special use permit to construct its new church building, located at 760 Waterman Drive. The dimensions of the church building are 150 long and 60 wide. If you have any questions or concerns, please contact us. Thank you

Sincerely,

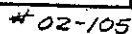
  
Rev. Abel Castro  
Iglesia Nueva Vida

  
Silma Corniel  
Secretary

647 CHICAGO AVE  
HARRISONBURG, VA 22802



EASEMENTS ARE AS SHOWN.





Date Application Received: 03-25-09

**Application for Special Use Permit**  
**City of Harrisonburg, Virginia**

Fee: \$325.00

Total Paid: \$ 325.00

AF

Property Owner's Name: Iglesia Nueva Vida Pentecostes  
Street Address: 647 Chicago Ave Email: pastor\_Acastro@verizon.net  
City: Harrisonburg State: Virginia Zip: 22802  
Telephone: Work \_\_\_\_\_ Fax (H) 432-3314 Mobile (540) 476-0961

476-0710

Owner's Representative: Abel Castro - Pastor

Street Address: 313 Cedar St.

Email: \_\_\_\_\_

City: Harrisonburg State: Virginia Zip: 22801

Telephone: Work \_\_\_\_\_ Fax (H) 540-432-3314 Mobile Same

**Description of Property and Request**

Location (Street Address): 760 Waterman Drive

Tax Map Number Sheet: 39 Block: E Lot: 7A Lot Area: 77,670.9 Ft.

Existing Zoning Classification: M-1 Industrial

Special Use being requested: Section 10-3-97(9) Religious use which does not provide housing in M-1 (A church)

Please provide a detailed description of the proposed (use additional pages may be attached): \_\_\_\_\_

Names and Addresses of Adjacent Property Owners (Use separate sheet for additional names)

North: \_\_\_\_\_

South: \_\_\_\_\_

East: \_\_\_\_\_

West: \_\_\_\_\_

**Certification:** *I certify that the information contained herein is true and accurate.*

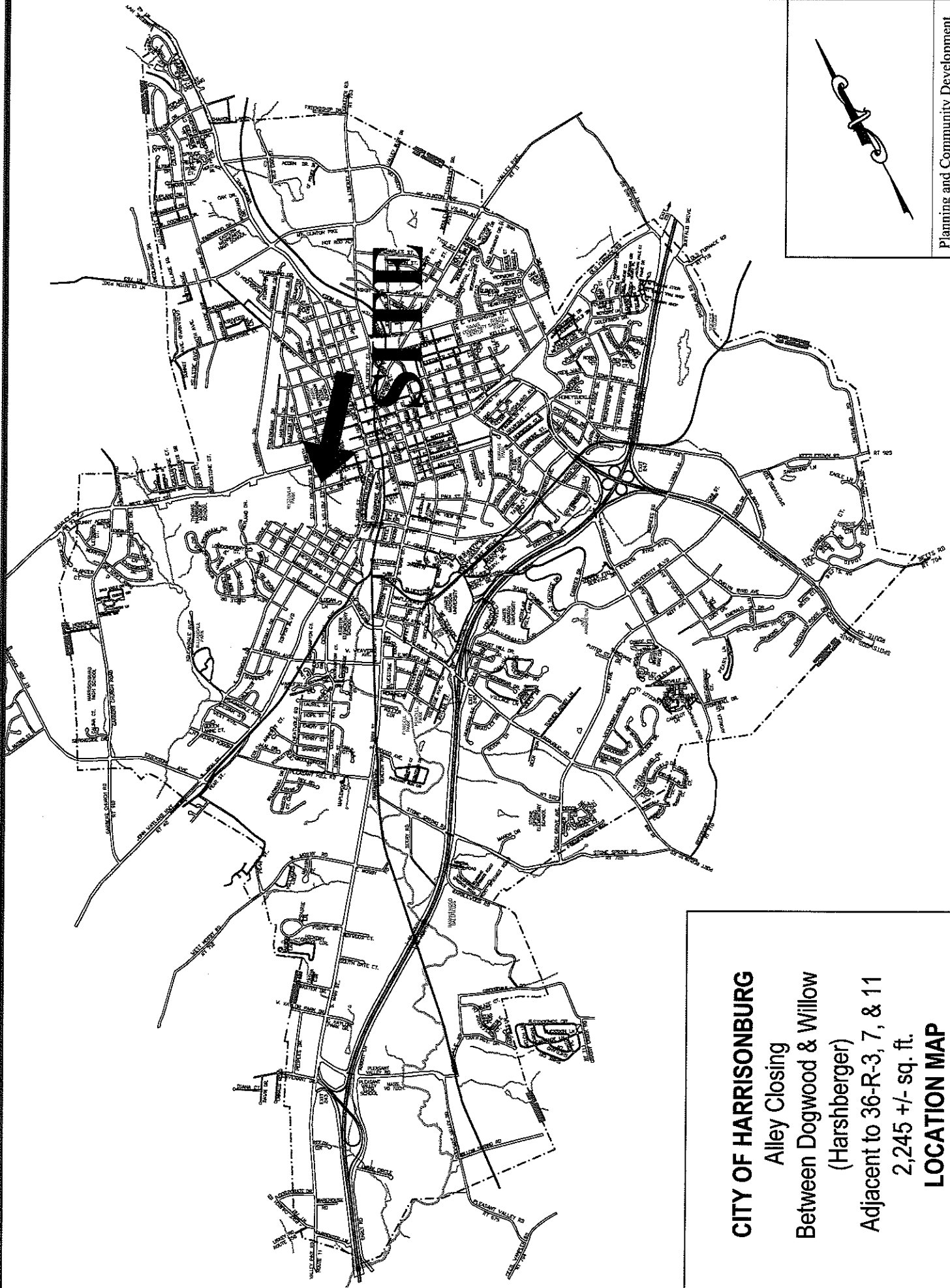
Signature: \_\_\_\_\_

*Abel Castro*  
Property Owner

**ITEMS REQUIRED FOR SUBMISSION**

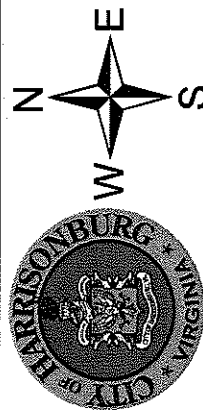
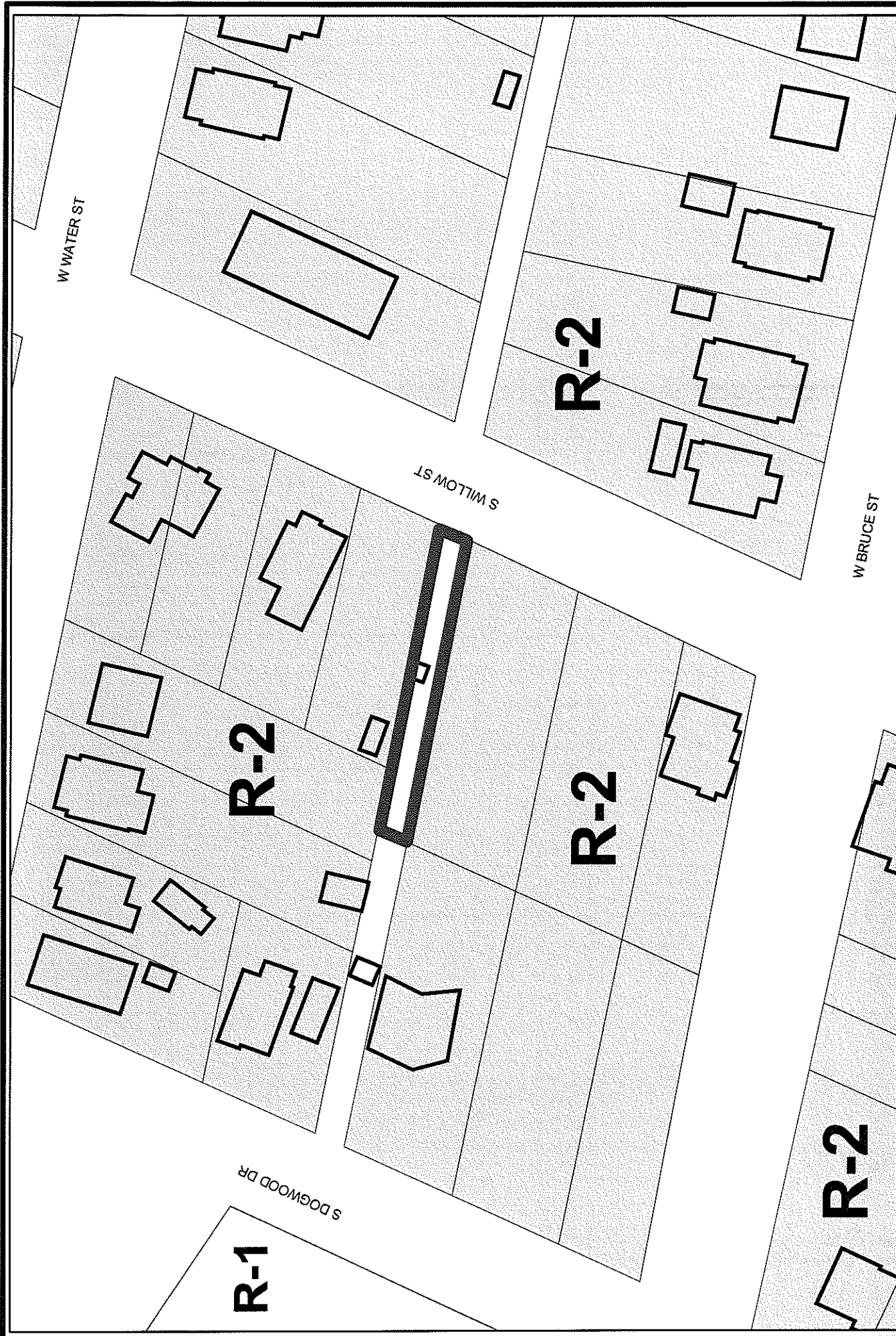
- ☐ Completed Application
- ☐ Site Plan
- ☐ Description of Proposed Use
- ☐ Adjacent Property Owners

- ☐ Fees Paid
- ☐ Property Located on Tax Map
- ☐ \_\_\_\_\_
- ☐ \_\_\_\_\_



Planning and Community Development  
City of Harrisonburg, Virginia

**CITY OF HARRISONBURG**  
Alley Closing  
Between Dogwood & Willow  
(Harshberger)  
Adjacent to 36-R-3, 7, & 11  
2,245 +/- sq. ft.  
**LOCATION MAP**



# Alley Closing Between Dogwood & Willow Adjacent to 36-R-3, 7, & 11 (Harshberger)



# City of Harrisonburg, Virginia

DEPARTMENT OF PLANNING AND COMMUNITY DEVELOPMENT

## STAFF REPORT

May 13, 2009

### ALLEY CLOSING – BETWEEN DOGWOOD & WILLOW (ADJACENT TO 36-R-3, 7, & 11)

#### GENERAL INFORMATION

**Applicant:** Dana Joy Harshberger  
**Tax Map:** Between tax parcels 36-R-3, 7, & 11  
**Acreage:** 2,245 +/- sq. ft.  
**Location:** Alley between South Willow Street and South Dogwood Drive  
**Request:** Consider a request to close a 2,245 +/- sq. ft. portion of an alley adjacent to tax parcels 36-R-3, 7, & 11 and perpendicular to South Willow Street and South Dogwood Drive

The following land uses are located on and adjacent to the property:

**Site:** Undeveloped 15 ft. alley  
**North:** Single-family dwellings and undeveloped parcel, zoned R-2  
**East:** Across South Willow Street, single-family dwelling and duplex, zoned R-2  
**South:** Single-family dwelling and undeveloped parcels, zoned R-2  
**West:** Single-family dwellings, zoned R-2

#### EVALUATION

This is a request to close a 2,245 +/- square foot portion of an undeveloped alley located between South Willow Street and South Dogwood Drive. If approved the applicant would enlarge her yard and make use of a portion of the alley to install a secondary entrance onto her property at 195 South Willow Street.

The applicant has been working with the City and adjoining property owners for the past two years with the intent of making the alley usable by all surrounding landowners; however, her attempts have been unsuccessful. At this time the applicant desires to purchase the alley and install some type of fence or natural barrier along the northern property boundary.

The section of the alley requested to be vacated is approximately 15 feet wide by 149.7 feet long. A public sanitary sewer line is located within the limits of the alley; therefore, an easement would need to be established prior to the sale. There is an outlet pipe at the eastern end of the alley, which discharges into the area requested to be closed; staff has determined that this is a private stormwater pipe and it would be the responsibility of any future owners to maintain.

Closing the eastern portion of the right-of-way should not impact property owners at either end. There is a natural drainage way that runs perpendicular to, and across the alley, within the portion requested to be closed. This drainage way ditch is open in the alleyway, making it difficult for vehicular traffic

to cross. Also, there is a utility structure in the western portion of the right-of-way, closer to Dogwood Drive, blocking access into the alley.

The alley is not utilized by City Departments for trash collection or emergency services and the City has no plans to develop the right-of-way. Staff supports the request and recommends closing this portion of the alley.

18 March 2009

Harrisonburg City Manager  
Main Street  
Harrisonburg, VA 22801

To Whom It May Concern:

This letter is written regarding a request to purchase a portion of a city-owned alley way. This alley way is located at the northern boundary of lot 3, of Block 5, in the Brookland Addition (please see attached land survey)

The reasons for this request are as follows:

- 1) For the past 2 years I have been making constant attempts to gain use of this alley way, as an adjoining property owner.
- 2) Initially, the property owners to the north of this alley way (131 S. Willow) were using this alley way as an extension of their own land. The alley way was being used for storage for a boat, a trailer, an out building, and other miscellaneous items. In addition, these property owners were using the alley way as a personal dump site for fireplace ash, grass clippings, and other materials.
- 3) Considerable time was spent in order to get public works to force the property owners to remove their personal property that was illegally blocking the alley way.
- 4) My initial intentions were to re-grade the alley way so that all adjoining property owners could easily access their properties via the alley way. Re-grading is necessary due to the fact the property owner at 131 S. Willow had illegally made a curb cut and obstructed the entrance of the alley way with a parking pad. Access to my property via the alley way has been impossible due not only to the parking pad, but also to the vehicles sitting on the aforementioned pad.
- 5) After going through all the proper channels with Public Works (multiple meetings with Public Works, visits by Public Works to the property, and official surveys by the City Surveyor), we were granted permission to work in the alley way.

- 6) It was fully explained to the property owners at 131 S Willow that regarding the entrance to the alley way would benefit all adjoining property owners. The benefits were fully explained by myself, Ken Knight at Public Works, and the City Surveyor, Charlie Wenger.
- 7) Unfortunately, all efforts to improve the alley way (and thus increase property values) were thwarted due to the irrational and overly Aggressive actions of the property owners at 131 S. Willow. The property owners at 131 South Willow have made it abundantly clear that it is not possible to peacefully share access to this alley way.
- 8) After great consideration, I feel that my only course of action is to purchase the alley way. This will allow me to access my property as desired, and erect some sort of barrier along the northern-most border of my property.
- 9) Without purchasing the alley way, I would lose the use of the alley way if I install a fence or a natural barrier. I do not think this is fair when I have gone through the proper channels to for nearly 2 years to address this situation.

I respectfully urge you to seriously consider allowing me to purchase the alley way.

Sincerely,

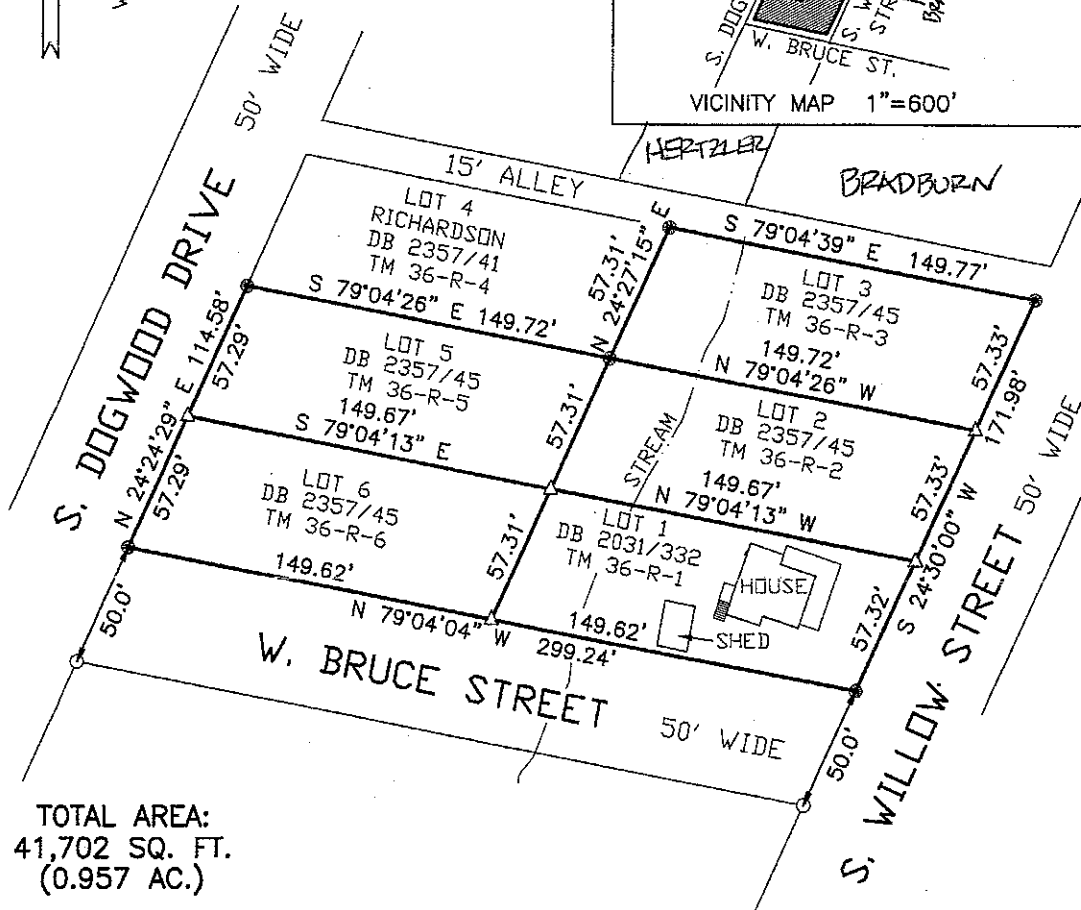
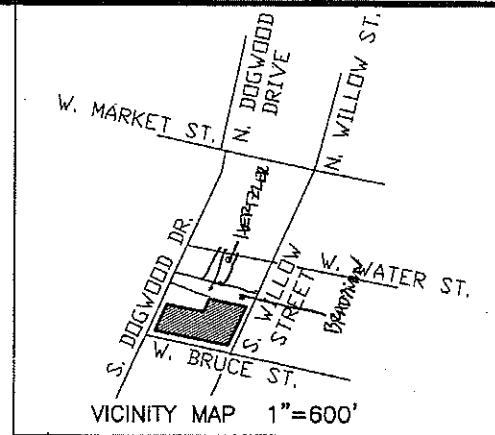
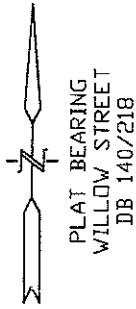


Dana Joy Harshberger  
195 South Willow Street



FEBRUARY 12, 2007  
SCALE: 1"=60'

● = IRON PIN SET  
○ = FOUND IRON PIN  
△ = POINT



TOTAL AREA:  
41,702 SQ. FT.  
(0.957 AC.)

TITLE INFORMATION:

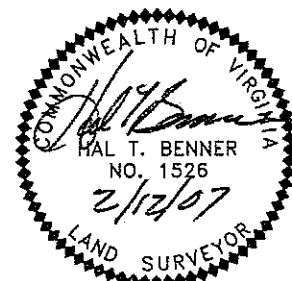
TM 36-R-1, 2, 3, 5 & 6  
DB 2031/332 & DB 2357/45  
SUBD. PLAT DB 140/218  
OWNER: DANA JOY HARSHBERGER  
ADDRESS: 195 S. WILLOW STREET  
HARRISONBURG, VA 22801

THIS BOUNDARY SURVEY IS BASED  
ON A CURRENT FIELD SURVEY.

# BOUNDARY SURVEY OF LOTS 1, 2, 3, 5 & 6, RE-SUB- DIVISION OF BLOCK 5, IN THE BROOKLAND ADDITION

CITY OF HARRISONBURG, VIRGINIA

**BENNER & ASSOC., INC.**  
8 PLEASANT HILL ROAD  
HARRISONBURG, VA 22801  
540 434-0267  
REF# 011007  
DRAWING: 011007.DWG



=COPY=



# CITY OF HARRISONBURG, VIRGINIA

## Office of Commissioner of the Revenue

Municipal Building  
345 South Main Street  
P. O. Box 20031  
Harrisonburg, VA 22801-7531  
citycomm@ci.harrisonburg.va.us  
real\_estate\_director@ci.harrisonburg.va.us

June W. Hosaflook  
Commissioner  
(540)432-7704

Lisa Neunlist  
Real Estate Director  
(540) 432-7795  
Fax (540) 432-7781

3/20/2009

MR. KURT HODGEN, CITY MANAGER  
CITY OF HARRISONBURG  
345 S MAIN STREET  
HARRISONBURG, VA. 22801

RE: A REQUEST WAS MADE BY DANA JOY HARSHBERGER TO CLOSE AND PURCHASE A PORTION OF AN ALLEY. THE ALLEY SITS BETWEEN LOTS 36-R-3 AND 36-R-7 AND RUNS FROM SOUTH DOGWOOD DRIVE TO SOUTH WILLOW STREET. THE PORTION CONTAINS APPROXIMATELY 2,245 SQUARE FEET.

DEAR MR. HODGEN:

IN COMPLIANCE WITH *CITY OF HARRISONBURG CODE OF ORDINANCES, SECTION 6-1-23*, I SUBMIT THE FOLLOWING INFORMATION.

THE ADJOINING PROPERTIES ARE ASSESSED AS FOLLOWS:

36-R-3--\$4.35 PER SQUARE FOOT, CONTAINING APPROXIMATELY 8,583 SQUARE FEET.  
36-R-7-- \$5.00 PER SQUARE FOOT, CONTAINING APPROXIMATELY 4,800 SQUARE FEET.  
36-R-11--\$7.00 PER SQUARE FOOT, CONTAINING APPROXIMATELY 7,522 SQUARE FEET.

THE ASSESSED VALUE PLACED ON 36-R-3 AND 36-R-7 IS DISCOUNTED DUE TO A STREAM. THE STREAM RUNS THROUGH THE BACK PORTION OF THESE LOTS. THE SUBJECT PROPERTY WOULD ALSO BE AFFECTED BY THE STREAM.

PLEASE NOTIFY ME IF I CAN BE OF FURTHER ASSISTANCE.

A handwritten signature in cursive script, appearing to read "Lisa Neunlist", is written over the typed name.

LISA NEUNLIST  
REAL ESTATE DIRECTOR

THE CITY WITH THE PLANNED FUTURE

Date application received: 03-26-09

# Application for Street or Alley Closing

## City of Harrisonburg, Virginia

Review fee: \$50.00 Board of Viewers appointment (\$50.00 each): \$      Total Paid: \$

Applicant's name: DANA JOY HARSHBERGER

Street address: 195 SOUTH WILLON Email: dana@rica.net

City: HARRISONBURG State: VA Zip: 22801

Telephone: ~~Work~~ 433-5806 Fax — Mobile —  
HOME

Representative (if any): \_\_\_\_\_

Street address: \_\_\_\_\_ Email: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Telephone:    Work                      Fax                      Mobile

### Description of Request

Location: ALLEY THAT RUNS BETWEEN WILLOW & DOGWOOD. (SEE ATTACHED)

Square footage of area to be closed: 2245 SQ. FEET (15 WIDE X 149 DEEP)

Cost per square foot: \$ \_\_\_\_\_ Total cost: \$ \_\_\_\_\_

Please provide a detailed description of the proposed closure (additional pages may be attached):

SEE ATTACHED

Names and addresses of adjacent property owners (Use separate sheet for additional names)


North: JULIUS/ANNABELL BRADBURN (131 SOUTH WILLOW)

South: MYSELF (195 S. WILLOW)

East: X (CITY STREET)

West: WILLIAM/DOROTHY HERTZLER (511 W. WATER) & TIM RICHARDSON (150 S. DOUGLASS)

*I hereby certify that it is my intention to have the above described Street(s) or Alley(s) closed and that the information contained herein is true and accurate. In addition, I understand that all required advertising and associated costs will be at the expense of the applicant.*

Signature:   
Applicant

3.19.2009  
Date

### ITEMS REQUIRED FOR SUBMISSION

- |                          |  |                          |   |
|--------------------------|--|--------------------------|---|
| <input type="checkbox"/> | Completed application  | <input type="checkbox"/> | Value per square foot of cost to purchase |
| <input type="checkbox"/> | Letter describing proposed use   | <input type="checkbox"/> | Fees paid                                 |
| <input type="checkbox"/> | Adjacent property owners   | <input type="checkbox"/> | _____                                     |
| <input type="checkbox"/> | Survey & metes and bounds description (prepared by a surveyor, engineer, or other person duly authorized by the State) |                          |   |

*Please be advised, adjoining property owners shall be expected to buy that portion of the street/alley which abuts their property before second reading and final closing! The cost shall be at fair market value determined by the Commissioner of Revenue.*



# City of Harrisonburg, Virginia

DEPARTMENT OF PLANNING AND COMMUNITY DEVELOPMENT

## STAFF REPORT

May 13, 2009

### ZONING ORDINANCE AMENDMENT

#### Section 10-3-24

After discussions during the April regular Planning Commission meeting of Dr. Harriet Clare Cobb's proposal for an ordinance amendment to add "home business" as a new use permitted by special use permit, a public hearing has been arranged to approach this matter from a different perspective. Planning Commission suggested the City's existing definition for "home occupation" should be amended to specifically allow professional counselors the privilege of operating from residential zoning districts. This change would allow Dr. Cobb's proposed clinical private practice as a by-right use with an approved "home occupation" permit. This proposed amendment would also include language that would clearly allow residents who provide music lessons from their homes to operate under the "home occupation" permit.

The following text was the language proposed by the Commission to be added to the "home occupation" definition: *The forgoing notwithstanding, giving music lessons, and providing professional counseling services by appointment only and for not more than ten clients per week, shall constitute a home occupation.*

During the review of this suggested amendment, staff had several questions arise about what the added statement would actually mean. After deliberating, staff has proposed the following language, which we believe more clearly represents the intention of the added statement. The entire definition is provided for reference (staff's proposed language change is shown in italics): Home Occupation: Any occupation or activity which is clearly incidental to the use of the premises for dwelling purposes and which is carried on wholly within a main building or accessory building by a member of a family residing on the premises, in connection with which there is no advertising on the premises, and no other display or storage or variation from the residential character of the premises, and in connection with which no person outside the family is employed and no equipment which is deemed to be in conflict with the intent of this definition. A home occupation shall not include beauty parlors, barber shops or doctors' offices for the treatment of patients. *The forgoing notwithstanding, providing professional counseling services by appointment only for not more than ten clients per week, and giving music lessons shall constitute home occupations.*

As shown in the proposed changes above, professional counselors would be allowed no more than ten clients per week, by appointment only, and people providing music lessons would be permitted to have an unlimited number of clients. It should be clearly understood that both of these uses would be interpreted differently from any others allowed as a "home occupation" because these two particular uses would be allowed to receive clients to their homes while all other uses would not have that privilege.

While discussing this proposed amendment, Planning Commission should keep in mind some of the comments that staff made last month and other issues that could surface if this amendment is approved. Some of these issues could be:

- the difficulty in enforcing this type of mechanism,
- the potential frustration of neighbors not having the capability to express their concerns or comments for the traffic and clientele that could be traveling into their neighborhoods,
- the impact of these uses on apartment or townhouse communities that have limited parking availability,
- the precedent that this could set by establishing the desire of more residents wanting their “home occupation” to allow traffic to and from their home, and
- Planning Commission should also consider what uses should be allowed under the meaning of “professional counseling.”

# ORDINANCE AMENDMENT

**Zoning Ordinance  
Section 10-3-24**

Draft

ORDINANCE AMENDING AND RE-ENACTING SECTION

10-3-24

OF THE

CODE OF ORDINANCES

CITY OF HARRISONBURG, VIRGINIA

**Be it ordained by the Council of the City of  
Harrisonburg, Virginia:**

**That Section 10-3-24 be amended as follows:**

**Section 10-3-24. Definitions.**

**Add language to the definition as shown:**

Home Occupation: Any occupation or activity which is clearly incidental to the use of the premises for dwelling purposes and which is carried on wholly within a main building or accessory building by a member of a family residing on the premises, in connection with which there is no advertising on the premises, and no other display or storage or variation from the residential character of the premises, and in connection with which no person outside the family is employed and no equipment which is deemed to be in conflict with the intent of this definition. A home occupation shall not include beauty parlors, barber shops or doctors' offices for the treatment of patients. *The forgoing notwithstanding, providing professional counseling services by appointment only for not more than ten clients per week, and giving music lessons shall constitute home occupations.*

The remainder of Section 10-3-24 is reaffirmed and reenacted in its entirety, except as hereby modified.

This ordinance shall be effective from the \_\_\_\_\_ day of \_\_\_\_\_, 2009.  
Adopted and approved this \_\_\_\_\_ day of \_\_\_\_\_, 2009.

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**MAYOR**



# Draft

ATTESTE:

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CLERK OF THE COUNCIL



# City of Harrisonburg, Virginia

DEPARTMENT OF PLANNING AND COMMUNITY DEVELOPMENT

## STAFF REPORT

April 8, 2009

### ZONING ORDINANCE AMENDMENT

#### "HOME BUSINESS" DEFINITION AND SPECIAL USE PERMIT ADDITIONS

**Section 10-3-24 and 10-3-34, 10-3-40, 10-3-46, 10-3-48.4, 10-3-52, 10-3-55.4, 10-3-56.4, 10-3-57.4, 10-3-58.4, and 10-3-180.**

Dr. Harriet Clare Cobb, a faculty member of the Department of Graduate Psychology at James Madison University, who also has a limited clinical private practice at 1820 Country Club Road, is requesting to establish a new use for the City, which would allow businesses to operate within residential districts. The applicant intends to establish this use so she can treat several of her clients from her home at 950 Turkey Run Road.

The applicant would like the following definition inserted into Section 10-3-24, the definitions portion of the Zoning Ordinance: *Home Business: An occupation or activity which is clearly incidental to the use of the premises for dwelling purposes and which is carried on wholly within the main building or accessory building by a resident of the property. A home business shall only be comprised of an occupation or activity that does not alter the character of a residential neighborhood. There shall be no advertising on the premises, nor other display or storage or variation from the residential character of the premises. No person other than the resident(s) shall be employed and no equipment which is deemed to be in conflict with the intent of this definition is on the premises. A home business shall be no larger than an area that is equivalent to 25% of the primary structure's total finished floor area. All storage associated with the home business must be kept within that area. A home business could allow up to as many as eight (8) clients per day by appointment only. A home business shall operate between the hours of 8:00 a.m. and 8:00 p.m. Clients, customers, patients, etc., shall park on the property owner's driveway or along the public street, where permitted. There shall be no addition of parking spaces to accommodate the home business. Not more than one separate entrance or exit to the residence or accessory structure solely for the purpose of the home business shall be permitted. The creation of a separate entrance for the home business shall not be permitted on the front façade of the residential dwelling. If the property is part of a homeowner's/property owner's association, the applicant shall provide documentation from the association, which gives permission for the proposed use. Home businesses shall be limited to the applicant, the location, and the use described for which it was approved. Furthermore, the applicant shall comply with all local, state, and federal regulations that are pertinent to the home business.*

Staff has two concerns with the applicant's proposed language. First, the statement that declares, "a home business may only be comprised of an occupation or activity that does not alter the character of a residential neighborhood," staff believes is contradictory to the actual functioning of what would be a "home business" in our residential districts. The fact that a "home business" allows clients, customers, patients, etc. to travel to and from the home would, in effect, change the character of the residential neighborhood. Staff does not believe this statement should be included. Secondly, the

applicant's proposed language does not specifically offer renters/leasers the option of operating a "home business," and staff believes this would not be an equitable approach for this use. Thus, staff would suggest a definition, which is very similar to the applicant's except for the removal of the above discussed statement of concern, and with added text that would allow renters/leasers to apply for a "home business." Staff's suggested definition is as follows: *Home Business: An occupation or activity which is clearly incidental to the use of the premises for dwelling purposes and which is carried on wholly within a main building or accessory building by a resident of the property, in connection with which there is no advertising on the premises, and no other display or storage or variation from the residential character of the premises, and in connection with which no person other than residents are employed and no equipment which is deemed to be in conflict with the intent of this definition is on the premises. A home business shall be no larger than an area that is equivalent to 25% of the primary structure's total finished floor area. All storage associated with the home business must be kept within that area. A home business could allow up to as many as eight (8) clients per day by appointment only. A home business shall operate between the hours of 8:00 a.m. and 8:00 p.m. Clients, customers, patients, etc., shall park on the property owner's driveway or along the public street, where permitted. There shall be no addition of parking spaces to accommodate the home business. Not more than one separate entrance or exit to the residence or accessory structure solely for the purpose of the home business shall be permitted. The creation of a separate entrance for the home business shall not be permitted on the front façade of the residential dwelling. If an applicant rents/leases the residence, they shall provide documentation from the property owner, which gives permission for the proposed use. If the property is part of a homeowner's/property owner's association, the applicant shall provide documentation from the association, which gives permission for the proposed use. Home businesses shall be limited to the applicant, the location, and the use described for which it was approved. Furthermore, the applicant shall comply with all local, state, and federal regulations that are pertinent to the home business.*

Staff advised the applicant that if the "home business" definition was added to the Zoning Ordinance, the best approach would be to require applicants to obtain a special use permit; therefore, the applicant would like to add "home business" as a use allowable by special use permit within the R-1, Single Family Residential District (Section 10-3-34). If Planning Commission and City Council would like to adopt this use and add it as a special use permit within the R-1 zoning district, then staff believes it is appropriate to add "home business" as a special use within each residential zoning classification (Sections 10-3-40, 10-3-46, 10-3-48.4, 10-3-52, 10-3-55.4, 10-3-56.4, 10-3-57.4, 10-3-58.4, and 10-3-180).

The applicant started this process after staff received an anonymous concern that she was making renovations to her home to accommodate her private mental health practice. Staff notified the applicant and discovered she was making renovations to her home without the proper building permits, and intended on operating her private practice, in a part time manner, from her home at 950 Turkey Run Road. Dr. Cobb has diligently pursued rectification of her violations and has worked with staff to formulate the above definition that would legally allow her to operate her private practice from her home.

Staff researched and investigated how other municipalities control business-type uses in homes in residential districts and found that it varies from locality to locality. Many localities refer to this type of use as a "home occupation" and either administratively approve the request or specifically require special permission to have a business in a home. Although each locality was different, general regulations included: limiting the hours of operations, limiting the types of uses, regulating the

appearance of the dwellings, limiting or prohibiting advertisements, excluding commercial deliveries, restricting or prohibiting customer/client visitations, and often restricting the sale of goods. The results of our investigation revealed that the City's current regulation upon businesses in homes is not uncommon. The City currently allows a by-right use called a "home occupation," which is defined as: *Any occupation or activity which is clearly incidental to the use of the premises for dwelling purposes and which is carried on wholly within a main building or accessory building by a member of a family residing on the premises, in connection with which there is no advertising on the premises, and no other display or storage or variation from the residential character of the premises, and in connection with which no person outside the family is employed and no equipment which is deemed to be in conflict with the intent of this definition. A home occupation shall not include beauty parlors, barber shops or doctors' or dentists' offices for the treatment of patients.* In other words, the dwelling and the physical lot shall not be altered in anyway that would distinguish it from being anything but a residential use and the general public should have no way of knowing there was a home occupation inside the dwelling because no signage is permitted and no clients, customers, patients, or employees can travel to and from the home.

The "home occupation" permit is often triggered by the Commissioner of Revenue's office because when citizens apply for a business license at their home address, the Commissioner of Revenue's office will not grant the business license until they have received approval from our office that this type of use is permitted under the "home occupation" guidelines. The permission is administratively approved, primarily for record keeping purposes, and simply requires the applicant to read through the definition of a home occupation and sign the consent form, which states that they understand the rules. Once citizens find out what the regulations are for "home occupations," they either agree to abide by the rules, or move on to other alternatives to run their business. Staff does not have difficulty enforcing "home occupations" as we have very few concerns with uncooperative "home occupation" applicants.

Notice the proposed "home business" definition is very similar to the existing "home occupation" definition. The main differences between the two are that "home businesses" would be required to receive a special use permit; clients, customers, patients, etc would be permitted to travel to and from the home, and some renovations would be permitted to accommodate the "home business." The "home business" definition was specifically designed around the "home occupation" use because it has been a successful and practical method in regulating businesses in residential districts.

Staff has deliberated and considered the potential impacts of allowing this type of use for the past couple of months and concluded that adopting this use is not in the best interest of the City. Although we are not recommending approval of the amendment, staff has worked closely with Dr. Cobb on the language to come up with restrictions we feel are reasonable if Planning Commission and City Council decide to amend the ordinance. Staff understands that current planning and environmental theories support the mixture of uses for many reasons, several of which include providing more housing choices and opportunities, encouraging revitalization efforts, creating a sense of community, and lessening our impact on the environment. These are some of the reasons why staff encouraged and helped develop the recently adopted MX-U, Mixed Use Planned Community District. One should understand, however, that the City already has ways to live and work in the same environment. The aforementioned MX-U district as well as the B-1, R-6, and R-7 districts permits commercial and professional uses in addition to residential dwellings. Also, with the required lot area, the applicant could run her proposed professional office, by right, within the R-3 or R-4 districts, or with an R-P, Professional Overlay. One should understand however, that if someone were to have their dwelling unit and their business/professional office located on the same property, they would be required to

supply the appropriate amount of parking for their business (except within the B-1 category). The proposed "home business" provision would not require and would not allow parking facilities at the property.

Staff recognizes the potential of the applicant's practice, in isolation, to have minimal impact on her neighborhood. Throughout the years, staff has received many inquiries from people interested in establishing businesses at their property that would involve traffic to their homes. They have chosen to either change the nature of the business to eliminate traffic, rent commercial space, or have decided not to enter in to the business. Staff has had many different uses questioned over the years; examples have included but are not limited to occupations such as message therapists, beauticians, dog groomers, accountants, and so forth. Adopting the proposed "home business" use and encouraging additional traffic could cause unnecessary strain and pressure on many of the City's single family neighborhoods. The R-1 and R-2 zoning classifications are the primary districts where people invest in single family homes because of the existing regulations that protect their property investments. Generally, the citizens of Harrisonburg rely on the R-1 and R-2 zoning regulations to protect the unwanted infiltration of non-residential uses into their neighborhoods. Adopting this use could create unwanted situations and set precedence for unwelcomed uses. If approved, there may be many businesses currently occupying commercial spaces who will feel they could fit into these parameters and operate from their homes.

As stated above, staff has worked with Dr. Cobb on this language and believes the restrictions proposed are reasonable. Staff would like to point out, however, that permitting business traffic will make enforcement of these restrictions very difficult. Currently, if we receive a complaint, we can find whether there is any traffic to the home easily because of the restrictions placed upon "home occupations." If the amendment is passed, it will be very difficult and time consuming to monitor numbers of customers if we receive concerns about these businesses. Staff believes this problem cannot be overcome by any change to the proposed language, but that it is unavoidable with any provision that allows traffic.

Staff recommends denial of the ordinance amendment to add "home business" to the Zoning Ordinance. If, however, Planning Commission and City Council approve this definition addition, staff recommends in favor of adding "home business" as a special use permit within the following Sections: 10-3-34 (R-1, Single Family Residential District), 10-3-40 (R-2, Residential District), 10-3-46 (R-3, Multiple Dwelling Residential District), 10-3-48.4 (R-3, Medium Density Residential District), 10-3-52 (R-4, Planned Unit Residential District), 10-3-55.4 (R-5, High Density Residential District), 10-3-56.4 (R-6, Low-Density Mixed Residential Planned Community District), 10-3-57.4 (R-7, Medium Density Mixed Residential Planned Community District), 10-3-58.4 (MX-U, Mixed Use Planned Community District), and 10-3-180 (U-R, Urban Residential District).

Staff would like to point out that if these amendments are approved, all existing music teachers that provide lessons within their homes would be considered non-conforming. They would be allowed to continue only if they maintained their non-conforming status. Any future citizen that would like to provide this service would be required to apply for a special use permit and go through the public hearing process at Planning Commission and at City Council.

# ORDINANCE AMENDMENT

**Sections 10-3-24 and 10-3-34, 10-3-40, 10-3-46, 10-3-48.4, 10-3-52, 10-3-55.4, 10-3-56.4, 10-3-57.4, 10-3-58.4, and 10-3-180.**

ORDINANCE AMENDING AND RE-ENACTING SECTION  
10-3-24 and 10-3-34, 10-3-40, 10-3-46, 10-3-48.4, 10-3-52, 10-3-55.4, 10-3-  
56.4, 10-3-57.4, 10-3-58.4, and 10-3-180.

OF THE  
CODE OF ORDINANCES  
CITY OF HARRISONBURG, VIRGINIA

**Be it ordained by the Council of the City of  
Harrisonburg, Virginia:**

**That Section 10-3-24 be amended as follows:**

**Section 10-3-24 Definitions.**

**Add a new definition as shown:**

*Home Business: An occupation or activity which is clearly incidental to the use of the premises for dwelling purposes and which is carried on wholly within the main building or accessory building by a resident of the property. A home business shall only be comprised of an occupation or activity that does not alter the character of a residential neighborhood. There shall be no advertising on the premises, nor other display or storage or variation from the residential character of the premises. No person other than the resident(s) shall be employed and no equipment which is deemed to be in conflict with the intent of this definition is on the premises. A home business shall be no larger than an area that is equivalent to 25% of the primary structure's total finished floor area. All storage associated with the home business must be kept within that area. A home business could allow up to as many as eight (8) clients per day by appointment only. A home business shall operate between the hours of 8:00 a.m. and 8:00 p.m. Clients, customers, patients, etc., shall park on the property owner's driveway or along the public street, where permitted. There shall be no addition of parking spaces to accommodate the home business. Not more than one separate entrance or exit to the residence or accessory structure solely for the purpose of the home business shall be permitted. The creation of a separate entrance for the home business shall not be permitted on the front façade of the residential dwelling. If the property is part of a homeowner's/property owner's association, the applicant shall provide documentation from the association, which gives permission for the proposed use. Home businesses shall be limited to the applicant, the location, and the use described for which it was*



*approved. Furthermore, the applicant shall comply with all local, state, and federal regulations that are pertinent to the home business.*

**AND**

**That Sections 10-3-34, 10-3-40, 10-3-46, 10-3-48.4, 10-3-52, 10-3-55.4, 10-3-56.4, 10-3-57.4, 10-3-58.4, and 10-3-180 be amended as follows:**

**Section 10-3-34. Uses permitted only by special use permit.**

**Add a new subsection (9) as shown:**

*(9) Home Business*

**Section 10-3-40. Uses permitted only by special use permit.**

**Add a new subsection (10) as shown:**

*(10) Home Business*

**Section 10-3-46. Uses permitted only by special use permit.**

**Add a new subsection (7) as shown:**

*(7) Home Business*

**Section 10-3-48.4. Uses permitted only by special use permit.**

**Add a new subsection (8) as shown:**

*(8) Home Business*

**Section 10-3-52. Uses permitted only by special use permit.**

**Add a new subsection (5) as shown:**

*(5) Home Business*

**Section 10-3-55.4. Uses permitted only by special use permit.**

**Add a new subsection (5) as shown:**

*(5) Home Business*

**Section 10-3-56.4. Uses permitted only by special use permit.**

**Add a new subsection (e) as shown:**

*(e) Home Business*

**Section 10-3-57.4. Uses permitted only by special use permit.**

**Add a new subsection (e) as shown:**

*(e) Home Business*

**Section 10-3-58.4. Uses permitted only by special use permit.**

**Add a new subsection (5) as shown:**

*(5) Home Business*

**Section 10-3-180. Uses permitted only by special use permit.**

**Add a new subsection (8) as shown:**

*(8) Home Business*

The remainder of the above Sections are reaffirmed and reenacted in their entirety, except as hereby modified.

This ordinance shall be effective from the \_\_\_\_ day of \_\_\_\_\_, 2009.  
Adopted and approved this \_\_\_\_ day of \_\_\_\_\_, 2009.

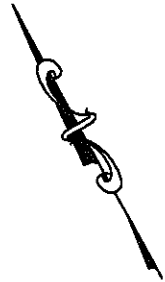
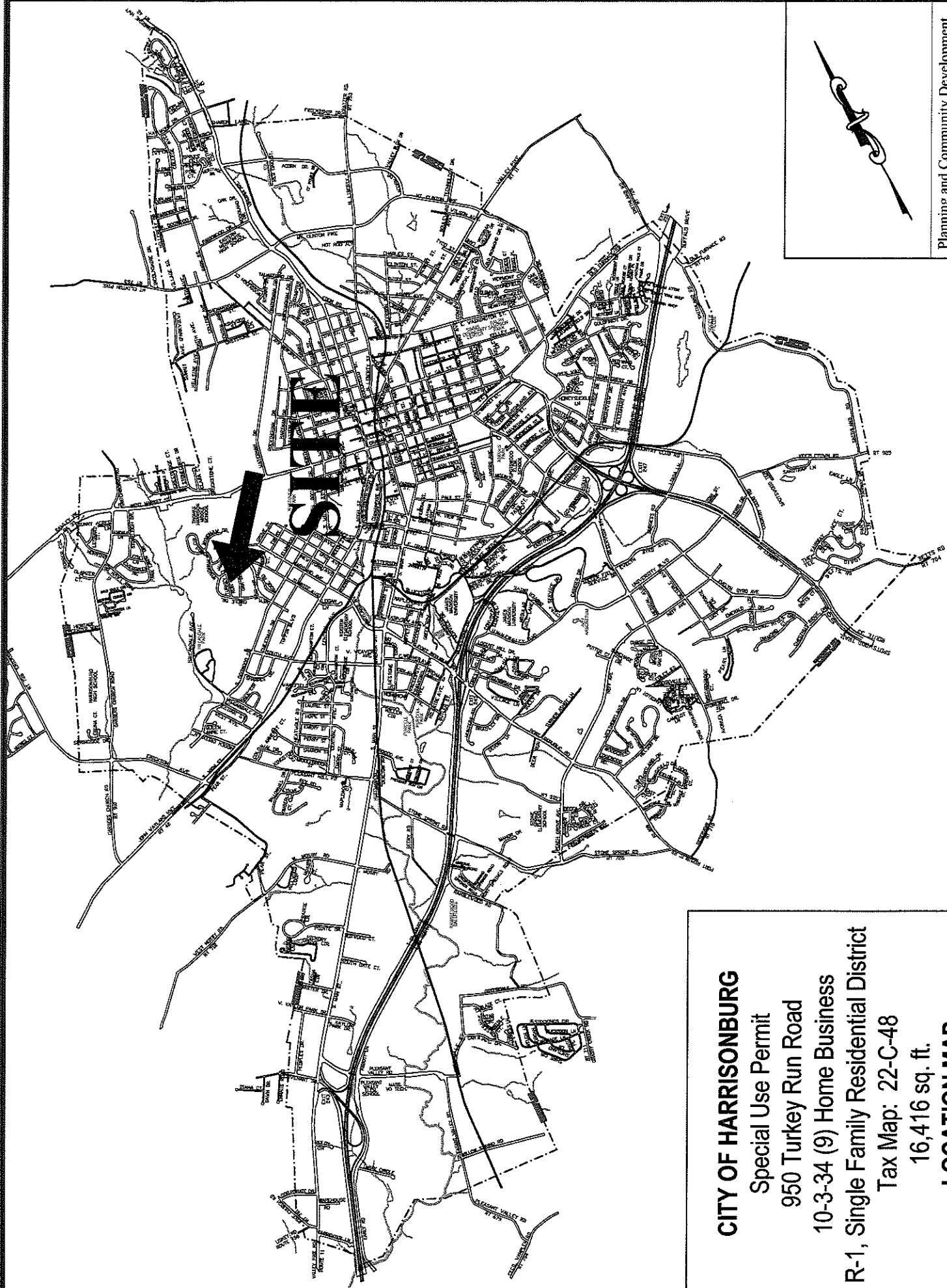
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**MAYOR**

ATTESTE:

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CLERK OF THE COUNCIL



Planning and Community Development  
City of Harrisonburg, Virginia

## CITY OF HARRISONBURG

Special Use Permit

950 Turkey Run Road

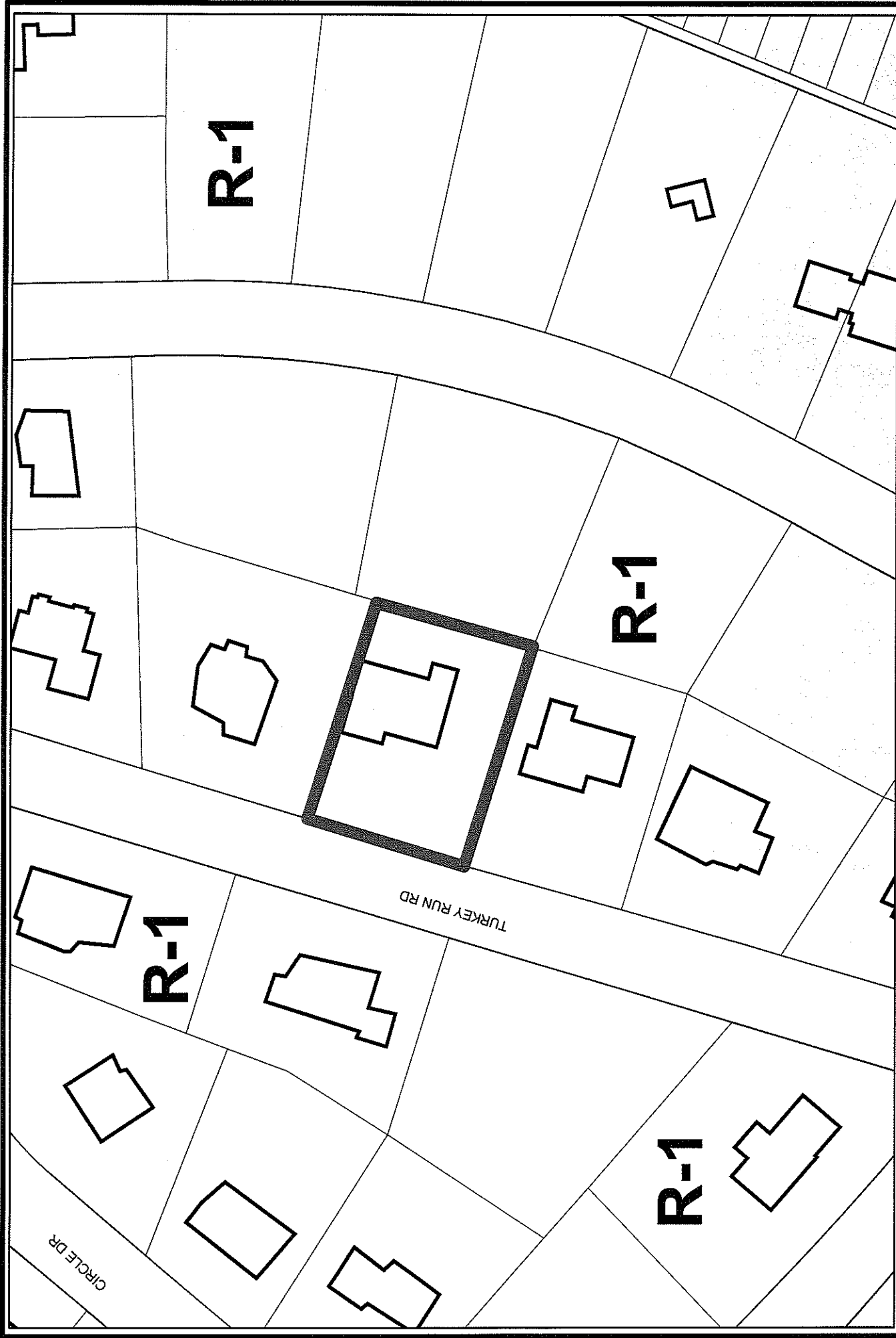
10-3-34 (9) Home Business

R-1, Single Family Residential District

Tax Map: 22-C-48

16,416 sq. ft.

**LOCATION MAP**



**950 Turkey Run Road**  
**Special Use Permit 10-3-34 (9)**



# City of Harrisonburg, Virginia

DEPARTMENT OF PLANNING AND COMMUNITY DEVELOPMENT

## STAFF REPORT

April 8, 2009

### SPECIAL USE PERMIT – 950 TURKEY RUN ROAD (10-3-34 (9))

#### GENERAL INFORMATION

**Applicant:** Harriet Clare Cobb  
**Tax Map:** 22-C-48  
**Acreage:** 16,416 sq. ft.  
**Location:** 950 Turkey Run Road  
**Request:** Public hearing to consider a request for a special use permit to allow a home business within the R-1, Single Family Residential District.

#### LAND USE, ZONING, AND SITE CHARACTERISTICS

The Comprehensive Plan designates this area as Low-Density Residential. This designation states that these areas consist of single-family detached dwellings with a maximum density of 1 to 4 units per acre. Low-density sections are found mainly in well-established neighborhoods and are designed to maintain the existing character of neighborhoods and to provide traditional areas for home ownership.

The following land uses are located on and adjacent to the property:

**Site:** Single family home, zoned R-1  
**North:** Single family home, zoned R-1  
**East:** Undeveloped single family home lot with frontage along the undeveloped right-of-way of Oak Drive, zoned R-1  
**South:** Single family home, zoned R-1  
**West:** Across Turkey Run Road, single family home, zoned R-1

#### EVALUATION

In anticipation of City Council approving an ordinance amendment to adopt “home business” as a new use allowable by special use permit, Dr. Harriet Clare Cobb is concurrently requesting a special use permit per the newly proposed Section 10-3-34 (9) to allow a “home business,” within the R-1, Single Family Residential District. Her home is located at 950 Turkey Run Road and is designated as Low-Density Residential by the Comprehensive Plan.

Dr. Cobb is a faculty member of the Department of Graduate Psychology at James Madison University. She has maintained a limited clinical private practice for the past 26 years, most recently operating from 1820 Country Club Road. Dr. Cobb would like to conduct her limited private clinical practice from her home, which she owns and has lived in since 2003, where she would consult with a

variety of clients. If approved, Dr. Cobb said she will maintain consulting with clients at the Country Club Road facility for those clients that it may not be particularly appropriate to meet in her home.

If the definition of "home business" is approved as presented, Dr. Cobb would only be permitted to receive eight clients per day, by appointment only, and between the hours of 8:00 a.m. and 8:00 pm. No one other than those that reside at her home can be employed by the practice; however, Dr. Cobb does not anticipate the necessity of additional employees. Her clients would park in her driveway or on the public street, as defined by the "home business" definition. They would be provided with a secure and confidential entrance along the northern side of her dwelling that was built specifically for her practice. Her "home business" would be contained within two rooms, a waiting room and her practice room; this area is approximately 22 percent of her dwelling's total square footage. Clients would also be accommodated with a bathroom facility that is accessible from the waiting room.

When the counseling session is over, clients have the option of exiting directly from her practice room, which has an existing egress into the backyard patio area of her dwelling. This option allows for private departure from clients that may be waiting in the waiting room. The backyard patio area reconnects with the entrance walkway that leads to the driveway.

Although staff did not support the ordinance amendment to add "home business" as a use permitted within the city, if City Council adopts this use, staff believes that Dr. Cobb's proposed use would operate at a level that would have as minimal impact to the neighborhood as can be expected from a "home business" of this type. Dr. Cobb would not be selling, producing, or repairing goods, she would not be storing any equipment that is unrelated to a single family dwelling, nor does she anticipate any deliveries that are uncommon to a single family dwelling. She expects no more than eight to ten appointments per week, which is traffic that is arguably equivalent to or less than the disruption and commotion caused by large single families that have multiple drivers. However, one must keep in mind that Dr. Cobb would be able to have as many as eight clients per day. The additional entrance, created for her "home business," is placed in an inconspicuous location that cannot be seen from the public street; and her clients will be able to park in her driveway that has the capability of accommodating approximately three to four vehicles. Dr. Cobb is the only occupant of her dwelling, therefore other than the occasional visit from family and friends, the coming and going traffic should not appear to be any more troublesome than a traditional single family home. Furthermore, the subject property is part of a neighborhood where most of the homes are well above the required 10,000 square foot minimum lot area requirement of R-1 zoned properties; this has allowed for larger areas between the dwellings as the northern side of her home, where the "home business" would be located, is approximately 50 feet from her next door neighbor's dwelling, and her house is roughly 60 feet from her neighbor's house on the southern side of her property.

As noted above, staff believes the proposed use would have minimal impact to the surrounding residential district and supports a favorable recommendation to City Council with the following condition:

1. If City Council finds the "home business" too damaging to the surrounding neighborhood they may require the applicant to return to Planning Commission to re-examine the use of the property. It shall be at the discretion of Planning Commission and/or City Council to determine if the re-evaluation shall necessitate a public hearing. Such re-evaluation may result in additional conditions being placed on the use or revocation of the special use permit.

Department of Planning & Community Development

409 South Main Street

Harrisonburg, VA 22801

March 11, 2009

Dear Ms. Banks and Mr. Fletcher:

This letter is prepared at your request for a description of my proposed home business. As you are aware, my primary employment since 1981 is as a faculty member of the Department of Graduate Psychology at James Madison University. I have maintained a limited clinical practice in the city of Harrisonburg for 26 years (the last 15 years at 1820 Country Club Road). I provide psychological services including counseling, assessment, and consultation to individuals, couples/families, and organizations.

I would like to begin seeing most of my clients in my home office for a number of reasons which I have detailed to you previously: 1. a wiser use of living space, 2. savings on overhead expenses, and 3. the "green" outcome that would occur from not commuting across town. I intend to continue the arrangement of renting office space by the clinical hour at the site of my current practice for selected clients, including those with wheelchairs if needed.

The proposed office suite, comprised of a waiting room, restroom, and practice office, would not be visible from the outside of the house. Clients would park in my driveway or immediately in front of my home to enter the office suite, which is located as a separate entrance on the left side of the house. There is a nearly identical side entrance on the right side of my home, so the business entrance is quite commensurate with a residential appearance. There will be no signs indicating there is a home business on the property.

As I have indicated, I keep approximately eight appointments per week, usually with one individual or a very small group of up to five people who arrive in one or two cars at a time. There are no additional staff associated with this business other than myself. I cherish the character of an R-1 neighborhood, so I can assure the Department of Planning and Community Development that I will maintain the nature of a quiet, minimal traffic residential community that my neighbors and I sought when we purchased our homes. (As you are aware, I discussed my proposed home business with all of my neighbors on Turkey Run Road and none of them had any objection.)

I have appreciated your guidance and responsiveness throughout this process thus far. We share a commitment to supporting Harrisonburg as a friendly community that attracts and retains residents who take pride in planning and development that honors our traditions, is mindful of the present, and anticipates the future.

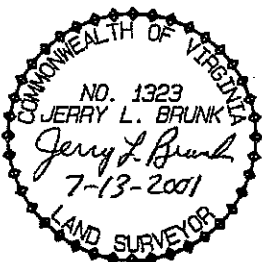
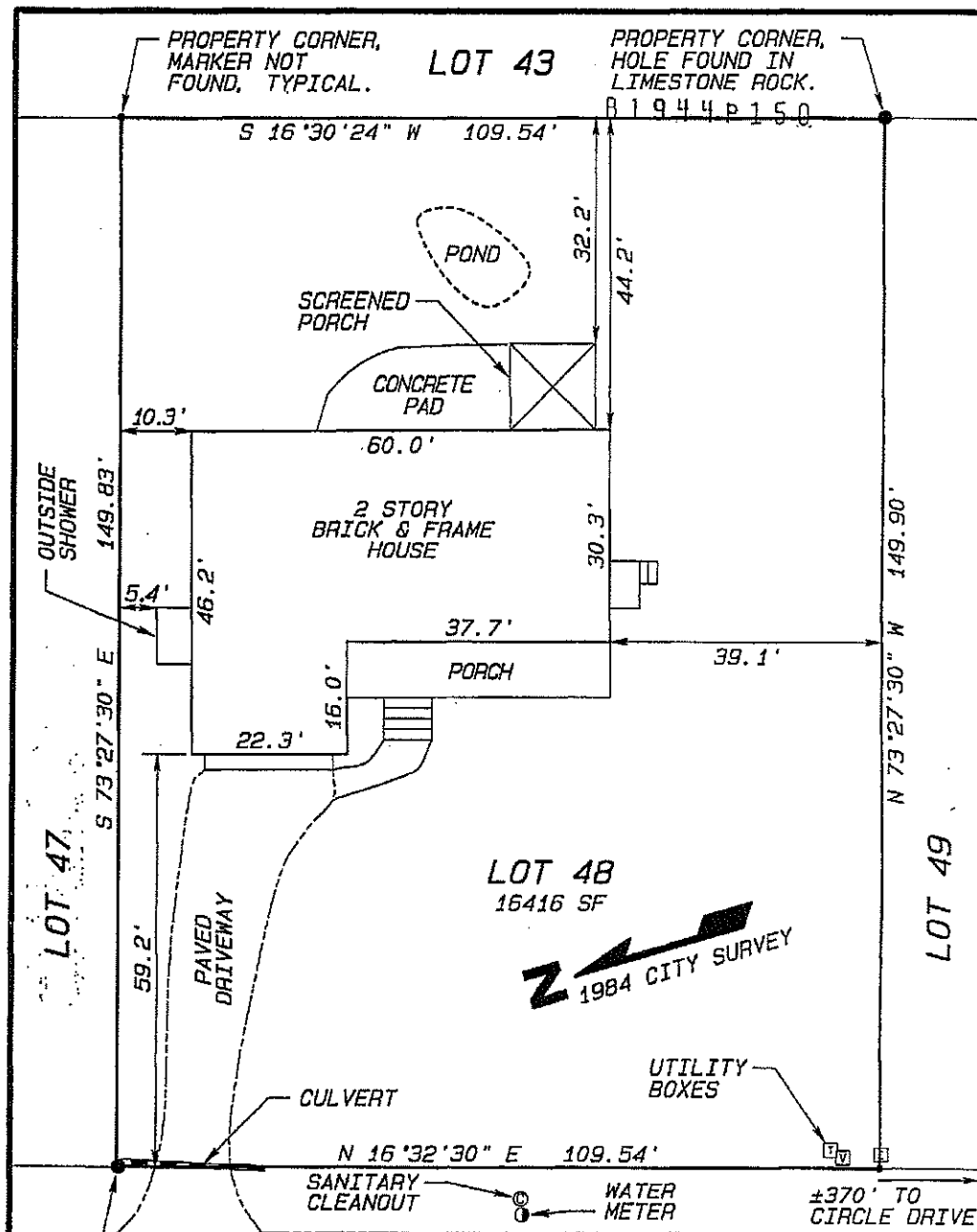
If you would like further elaboration in order to proceed, please let me know.



Sincerely,

Harriet Clare Cobb, Ed.D.

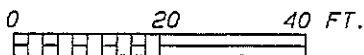
Licensed Professional Counselor/Licensed School Psychologist



BRUNK & HYLTON ENGINEERING, INC.  
ENGINEERING SURVEYING PLANNING  
P. O. BOX 7  
WEYERS CAVE, VIRGINIA 24486  
540 234-9112

PHYSICAL SURVEY PLAT  
LOT 48  
950 TURKEY RUN ROAD  
CONRAD'S SUBDIVISION  
OF PART OF  
SUNSET HEIGHTS ADDITION  
CITY OF HARRISONBURG  
VIRGINIA

JULY 9, 2001



SHEET 1 OF 2

01074

NOTES

1. THIS PLAT IS BASED UPON A FIELD SURVEY OF JULY 5, 2001.
2. TO ALL PARTIES INTERESTED IN TITLE TO PREMISES SURVEYED, SURVEY WAS ACTUALLY MADE ON THE GROUND PER RECORD DESCRIPTION AND IS CORRECT. NO ENCROACHMENTS ARE EVIDENT EXCEPT AS SHOWN HEREON.
3. THIS PROPERTY IS NOT LOCATED WITHIN A FEMA FLOOD HAZARD ZONE.
4. SUBDIVISION OF RECORD: DEED BOOK 294 PAGE 486
5. MINIMUM SETBACKS: 30' FRONT, 25' REAR, AND 10' SIDES.
6. CURRENT OWNER: SMITH, VARDAMAN R. & TERESA B.  
TITLE SOURCE: DEED BOOK 1088 PAGE 403  
TAX REFERENCE: SHEET 22, BLOCK C, LOT 48
7. PURCHASER: CROWTHER, HUGH F.
8. THE ORIGINAL SUBDIVISION PLAT IN DEED BOOK 294 PAGE 486 HAS MATHEMATICAL PROBLEMS AND DOES NOT FIT THE FIELD VERY WELL. THEREFORE, IN 1984, THE CITY OF HARRISONBURG MADE A SURVEY OF THE CIRCLE DRIVE AREA AND SET IRON PINS AT STREET INTERSECTIONS. THIS SURVEY IS BASED UPON TWO IRON PINS FOUND AT THE INTERSECTION OF THE NORTH END OF TURKEY RUN DRIVE AND CIRCLE DRIVE AND THE SOUTH END OF TURKEY RUN DRIVE AND CIRCLE DRIVE. THE REAR PROPERTY LINE WAS FIT TO 4 FOUND IRON PINS, TWO OF WHICH ARE NEAR THE SAME CORNER. IN ADDITION ONE IRON PIN WAS FOUND 13' EAST OF THE REAR LINE AND THEREFORE WAS NOT CONSIDERED. SIDE PROPERTY LINES WERE ESTABLISHED BY PRORATING SUBDIVISION PLAT FRONT LOT LENGTHS WITH THE MODEL.

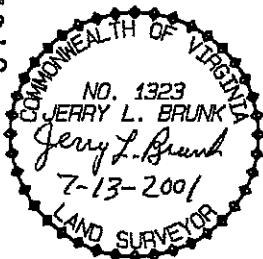
VIRGINIA: In the Clerk's Office of the Circuit Court of Rockingham County  
The foregoing instrument was this day presented in the office aforesaid, and is  
together with the certificate of acknowledgement annexed, admitted to record this  
20 day of July, 2001 at 2:03 P.M. I certify that  
taxes were paid when applicable:

Sec. 58-54 - State 412.50 County City 137.50  
Sec. 58-54.1 - State 137.50 County City 137.50 Transfer 6.00  
Recording 37.00

TESTE  
L. WAYNE HARPER  
CLERK

Deed Book No 1944 Page 147 863.00

018212



BRUNK & HYLTON ENGINEERING, INC.  
ENGINEERING SURVEYING PLANNING  
P. O. BOX 7  
WEYERS CAVE, VIRGINIA 24486  
540 234-9112

PHYSICAL SURVEY PLAT  
LOT 48  
950 TURKEY RUN ROAD  
CONRAD'S SUBDIVISION  
OF PART OF  
SUNSET HEIGHTS ADDITION  
CITY OF HARRISONBURG  
VIRGINIA

JULY 9, 2001

Date Application Received: 03-11-09

**Application for Special Use Permit**  
**City of Harrisonburg, Virginia**

Fee: \$325.00

Total Paid: \$ 325.00

Property Owner's Name: Harriet Clare Cobb

Street Address: 950 Turkey Run Road Email: \_\_\_\_\_

City: Harrisonburg State: VA Zip: 22801

Telephone: Work 540-568-6834 Fax 540-568-3322 Mobile 540-560-1262

Owner's Representative: (self)

Street Address: \_\_\_\_\_ Email: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Telephone: Work \_\_\_\_\_ Fax \_\_\_\_\_ Mobile \_\_\_\_\_

**Description of Property and Request**

Location (Street Address): 950 Turkey Run Road

Tax Map Number Sheet: 22 Block: C Lot: 48 Lot Area: ≈ 16083 sq ft

Existing Zoning Classification: R-1

Special Use being requested: Home Business

Please provide a detailed description of the proposed (use additional pages may be attached): \_\_\_\_\_

Names and Addresses of Adjacent Property Owners (Use separate sheet for additional names)

North: \_\_\_\_\_

South: \_\_\_\_\_

East: \_\_\_\_\_

West: \_\_\_\_\_

**Certification:** *I certify that the information contained herein is true and accurate.*

Signature: Harriet Clare Cobb  
Property Owner

**ITEMS REQUIRED FOR SUBMISSION**

- ☐ Completed Application
- ☐ Site Plan
- ☐ Description of Proposed Use
- ☐ Adjacent Property Owners

- ☐ Fees Paid
- ☐ Property Located on Tax Map
- ☐ \_\_\_\_\_
- ☐ \_\_\_\_\_



# Home Business Special Use Permit Supplemental Information

City of Harrisonburg, Virginia

Date: 4-1-09 \_\_\_\_\_

**Please read the below definition and answer the questions that follow.**

**Home Business:** An occupation or activity which is clearly incidental to the use of the premises for dwelling purposes and which is carried on wholly within a main building or accessory building by a resident of the property, in connection with which there is no advertising on the premises, and no other display or storage or variation from the residential character of the premises, and in connection with which no person other than residents are employed and no equipment which is deemed to be in conflict with the intent of this definition is on the premises. A home business shall be no larger than an area that is equivalent to 25% of the primary structure's total finished floor area. All storage associated with the home business must be kept within that area. A home business could allow up to as many as eight (8) clients per day by appointment only. A home business shall operate between the hours of 8:00 a.m. and 8:00 p.m. Clients, customers, patients, etc., shall park on the property owner's driveway or along the public street, where permitted. There shall be no addition of parking spaces to accommodate the home business. Not more than one separate entrance or exit to the residence or accessory structure solely for the purpose of the home business shall be permitted. The creation of a separate entrance for the home business shall not be permitted on the front façade of the residential dwelling. If an applicant rents/leases the residence, they shall provide documentation from the property owner, which gives permission for the proposed use. If the property is part of a homeowner's/property owner's association, the applicant shall provide documentation from the association, which gives permission for the proposed use. Home businesses shall be limited to the applicant, the location, and the use described for which it was approved. Furthermore, the applicant shall comply with all local, state, and federal regulations that are pertinent to the home business.

Applicant's Name: Harriet Clare Cobb \_\_\_\_\_

Address of Home Business: 950 Turkey Run Road Harrisonburg,  
VA 22801 \_\_\_\_\_

Type of Business: (Please provide a detailed description of the proposed use and activities involved, along with any materials and equipment used, methods of operation, and services provided): \_\_\_\_\_

(please see letter)

Do you own or rent this property: \_\_\_\_\_ Own \_\_\_\_\_

Will the home business operate within the main building or an accessory building? \_\_\_\_\_ Main building \_\_\_\_\_

Describe what rooms or buildings will be used to accommodate the home business. Waiting room, office, restroom \_\_\_\_\_

What is the approximate square footage of your home? And how much of this space will be used for the home business? 3400 square feet; 600 square feet to be used for office suite

What are the expected days and hours of operation? 8 am- 8 pm Monday through Friday

How many persons will be involved or employed at the home business? One

What type of product will be produced, serviced, or repaired or what service will be provided within the home business? Counseling, consultation, psychological assessment

Describe any alterations to the home or property to accommodate the home business. Side entrance, sidewalk, outside lighting \_\_\_\_\_

Will mechanical and/or electrical equipment be used? No

Describe how, where, and in what amounts materials, supplies, and/or equipment related to your home business will be displayed, used, or stored. Files will be stored in file cabinets

Will people come to your property to obtain any product or utilize any service connected with the home business? Yes, by appointment only

Will deliveries be made to your home to accommodate your home business? No

Will vehicles parked at your property advertise your home business? No

**Certification:** *I have read and understand the definition and expectations of a home business. I also certify that the information contained herein is true and accurate.*

Signature: \_\_\_\_\_  
Property Owner

Date: \_\_\_\_\_

Signature: \_\_\_\_\_  
Applicant, if different from owner

Date: \_\_\_\_\_

Signature: \_\_\_\_\_  
Homeowner's/Property Owner's Association Agent, if applicable

Date: \_\_\_\_\_

## May 2009 Proactive-Zoning Report

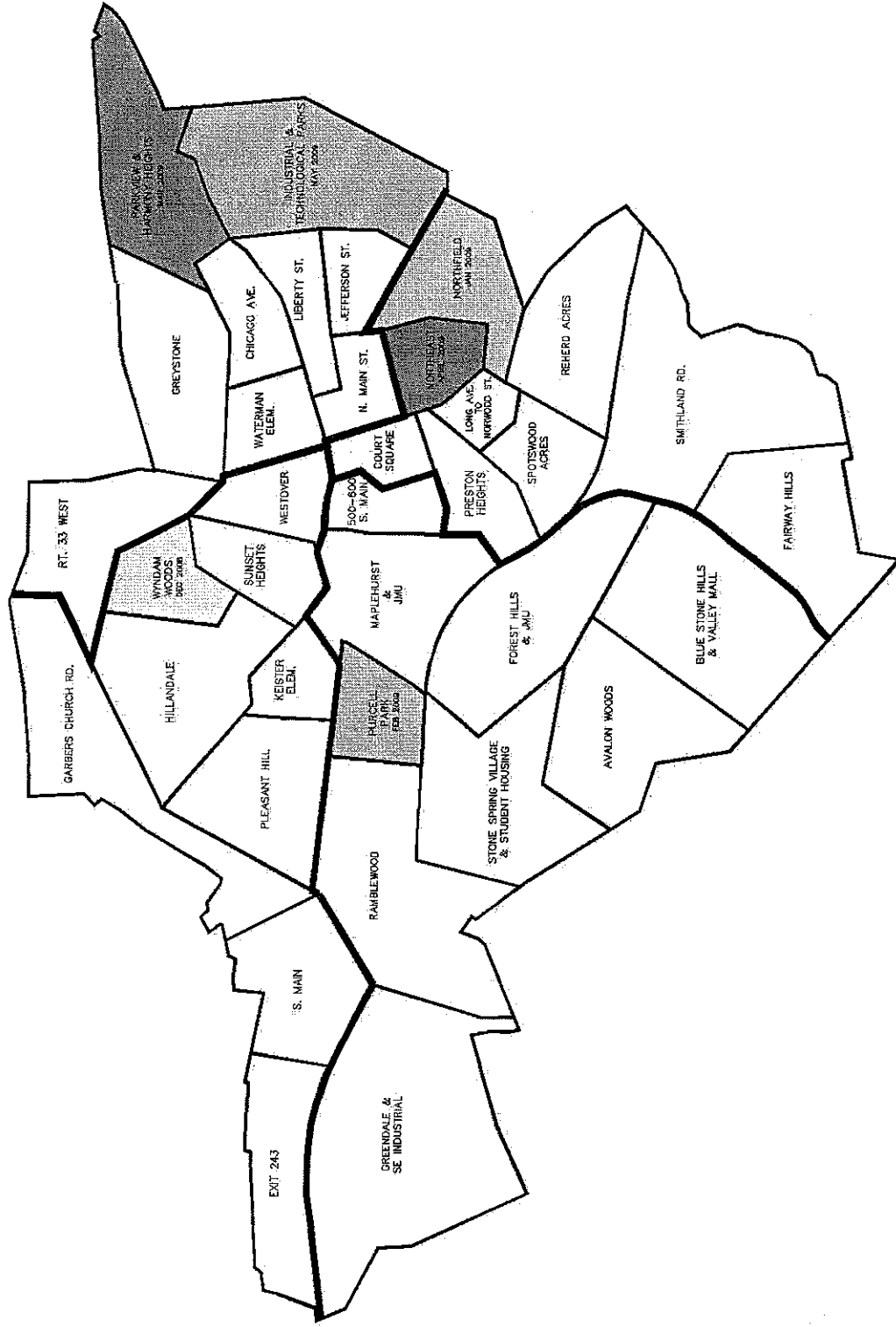
For the month of May 2009 the proactive-zoning program targeted the **Industrial & Technological Parks** section of the city. During the proactive inspections a total of **Zero violations** were found. This was the same number of violations from the first 3-year cycle and a decrease in the number of violations from the second 3-year cycle as noted in the chart below.

MONTH	SECTOR	VIOLATIONS	CORRECTED	1 <sup>st</sup> CYCLE	2 <sup>nd</sup> CYCLE
December 2008	Wyndham Woods	4	4	2	0
January 2009	Northfield	19	19	21	6
February 2009	Purcell Park	5	5	7	6
March 2009	Parkview	16	15	19	7
April 2009	Northeast	63	5	80	45
May 2009	Ind./Tech Park	0	0	0	1
June 2009	Exit 243			10	0
July 2009	Fairway Hills			1	0
August 2009	Smithland Rd.			0	4
September 2009	N. Main St.			13	4
October 2009	Liberty St.			6	4
November 2009	Westover			18	8
December 2009	Garber's Church			1	2
January 2010	Spotswood Acres			6	4
February 2010	Jefferson St.			26	22
March 2010	Forest Hills/JMU			6	1
April 2010	S. Main			1	0
May 2010	Hillandale			7	5
June 2010	Maplehurst/JMU			6	5
July 2010	Long /Norwood			12	28
August 2010	Greystone			13	10
September 2010	Greendale/SE			3	2
October 2010	Ramblewood			4	8
November 2010	Stone Spring Village/JMU			2	10
December 2010	Sunset Heights			7	29
January 2011	Reherd Acres			10	12
February 2011	RT 33 West			0	16
March 2011	Chicago Ave			16	22
April 2011	Pleasant Hill			4	13
May 2011	Avalon Woods			7	26
June 2011	Waterman Elementary			6	61
July 2011	Bluestone Hills & Valley Mall			3	33
August 2011	Keister Elementary			6	5
September 2011	500-600 S. Main			7	30
October 2011	Court Square			0	3
November 2011	Preston Heights			8	3

The proactive-zoning program for June 2009 will be directed towards the enforcement of the Zoning Ordinance in the **Exit 243** section of the City.



# Proactive Zoning Map





Department of Planning  
and  
Community Development  
Division of Planning and Zoning



## MEMORANDUM

**TO:** Harrisonburg Planning Commission  
**FROM:** Adam Fletcher, City Planner  
**RE:** Poultry Enforcement  
**DATE:** Friday, May 8, 2009

On the April 28, 2009 City Council agenda, a group of citizens known as the Harrisonburg Backyard Chicken Project (HBCP) presented information on the issue of raising "laying hens" within residential areas of the city. These citizens are petitioning the City to create an ordinance that would allow this practice. After listening to the presentation and engaging in conversation with HBCP, City Council directed the Harrisonburg Planning Commission to review this issue. A few days after the City Council meeting, Planning staff met with the Animal Control Officer to talk about the different ways to approach this issue, and if necessary, how to enforce it. Staff also researched how other localities regulate backyard chickens. Attached to this memo you will find several documents; a table that outlines how other localities enforce this practice, the document that was presented to City Council by the HBCP, a letter written by a veterinarian from the USDA, the current Animal Control sections of the City Code, and an article that appeared in the winter issue of *Edible Blue Ridge* about a family in Charlottesville that raises chickens. The following paragraphs explain how the City has enforced this issue in the past and how the current subject began.

Regulation of the keeping of poultry and other common agricultural animals is not a new issue for the City. For a number of years the Community Development Planning and Zoning Division has been notifying property owners of this type of violation of the City Code by stating that the Zoning Ordinance does not permit agricultural uses. For the most part, the animals are usually poultry, and it has been handled in this manner because staff has interpreted the keeping of poultry as an agricultural use, which is not permitted in any zoning classification. Typically, violations of this type are brought to our attention by citizen complaints, and also recently through the pro-active zoning inspections process. When a citizen is notified of their violation, they have 30 days from the receipt of the letter to bring the property into compliance. Failure to bring the property into compliance results in the City taking legal action, which could result in a misdemeanor charge and a fine of up to \$1,000.00.

The Community Development Department, however, is not the only city department that deals with this issue. The Police Department's Animal Control Officer has also been actively involved in this enforcement by responding to citizen complaints and informing residents they must discontinue the keeping of their poultry or they will be notified by the Planning and Zoning Division of their violation. The Animal Control Officer physically removes and detains chickens and roosters, when they are running at large, without involving the Planning and Zoning office. The Rockingham-Harrisonburg

SPCA accepts the animals that the officer has in her possession; however, the SPCA is required to take only cats and dogs but not chickens. If the SPCA begins to accept more poultry, the cooperation between the City and the SPCA may change, which could result in more costs to the City. Generally, people do not claim their chickens because the daily fee from the SPCA is more costly than the replacement value of their chickens.

It should be known that chickens are not the only birds that people have been told they could not raise; other birds include pheasants, swans, ducks, and pigeons. The Animal Control Officer has also witnessed the keeping of doves, however no one had complained about the birds and they were confined and seemed to be properly cared for. Although not birds, the Planning and Zoning office has even told people they could not keep bees within the city limits, again because it was interpreted as an agricultural use.

Our current issue regarding the keeping of "laying hens" began near the end of 2008 when a citizen was notified of their violation of raising chickens in their back yard. After rectifying their violation, they began discussions with the City to find out how an amendment could be proposed to allow the keeping of "laying hens" with appropriate regulatory controls. Planning and Zoning staff met with a small group of individuals in February to discuss the process of amending the Zoning Ordinance. During this discussion, staff realized that an amendment to the Zoning Ordinance may not be the most appropriate location of the City Code to enforce this issue. Staff believed a more appropriate location would be the Animal Control section of the City Code because the Animal Control Officer had more enforcement capabilities and hands on practice of detaining the animals. As the meeting came to a close, staff recommended they work with the City Attorney to potentially amend the City Code where appropriate. Eventually, the citizens brought their concerns to City Council, who then referred the issue to Planning Commission to determine whether it should be addressed as a land use issue or an animal control issue.

During a recent meeting between Community Development and the Animal Control Officer, several things were discussed, but the general consensus was that if the City decided to allow "laying hens," the Animal Control Officer had more appropriate resources to manage the subject matter. The following is a short list of the different issues that we discussed:

- If this is regulated through the Zoning Ordinance, the City must decide if it will be a use permitted by-right or by special use permit. If a special use permit is required, individuals who wish to raise chickens will be required to pay \$325.00 and go through a public hearing process at Planning Commission and City Council. One major question to consider would be what the criteria should be for whether someone should receive a special use permit. Perhaps after meeting some basic dimensional regulations, would the decision be based solely on whether or not their neighbors came out to oppose? Would this be equitable?
- If permitted there should be regulatory controls such as:
  - Should it only be permitted within certain zoning classifications and/or on lots of certain minimum sizes?
  - Could homeowner's or property owner's associations or a group of townhouses/apartments collectively be able to raise chickens on common land?
  - Should there be setback regulations, and/or shelter accommodation regulations? (It is important to understand that the Code of Virginia contains specifics on the conditions under which "domestic" or "companion" animals should be kept, which are enforced by the Animal Control Officer, but it does not specify the same for poultry, which is defined in the state code as "agricultural," therefore the City would have to establish guidelines if they are needed.)

- If it is regulated by the Zoning Ordinance, then the Animal Control Officer would still need to be involved because Planning and Zoning staff do not have the equipment or knowledge to capture roaming chickens, or to determine whether they are being kept in humane and sanitary conditions or even if their smell was excessive.
- If it is placed in the Zoning Ordinance, and then it is later decided to be removed, all properties that were raising chickens would be considered non-conforming and would be able to continue as long as the property owner did not discontinue the practice for 24 consecutive months. If enforcement of raising chickens is placed within the Animal Control section of the City Code, there is no state mandated non-conforming use protection clause.
- There are people who keep chickens for eating as opposed to raising chickens for their eggs. Currently, no regulation prohibits the slaughtering of them in the city, and in actuality, there is no regulation on slaughtering any domestic animal apart from the Code of Virginia, which requires it to be done humanely. Staff believes a regulation that attempts to regulate the slaughtering of animals would be unenforceable regardless of what part of the code regulates it. There is no way to tell if hens are being kept for their eggs or to be eaten.

City Council has requested Planning Commission decide whether the regulation of backyard chickens falls within the scope of land use regulations or belongs elsewhere in the City Code, if desired. Regardless of what section of the City Code would regulate this, there can be further conditions set regarding issues mentioned previously. After deciding what section of the City Code should regulate chickens, public hearings would be needed on specific ordinance language to decide if the keeping of chickens is an appropriate practice to allow in the city. If it is ultimately determined not permit it, then city staff could continue enforcing the City Code as we have been or a different procedure can be put in place.

# **SURVEY OF URBAN CHICKEN REGULATIONS (05/2009)**

Locality	Permitted in Residential areas?	Governing Ordinance	Summary of Regulations
Staunton	No	Zoning	ZO allows agricultural crops but "not the raising of farm animals"
Virginia Beach	No	Zoning	Permitted in areas zoned Agriculture only
Fairfax County	Yes	Zoning	Accessory use on lots of 2 acres or more, then allow 32/acre
Lexington	No	Animal Control	Specifically does not allow chickens
Roanoke City	Yes	Animal Control	less than 20,000 sq. ft. =10 birds for non agr. areas
Winchester	Yes	Animal control	On property of 2 or more acres, 12 birds/acre
Chesterfield Co.	Yes	Zoning	As a conditional use (no more than 12) in residential areas, also allow cows, sheep, goats, horses or other farm animals in same manner
Charlottesville	Yes	Animal Control	Not mentioned in ZO, only mention in AC is that they can't run at large, so it's been interpreted that they must be allowed and there are really no restrictions.
Fredericksburg	No	Animal Control	Do not allow domestic fowl, pigeons, bees or any like animal
Manassas	Yes	Animal Control	Have to be enclosed, with enclosure at least 250 feet from the nearest dwelling other than that of the owner
Martinsville	No	Animal Control	No horses, mules, cows, donkeys, chickens, turkeys, ducks and orther like animal classified as livestock or fowl
Arlington Co.	Yes--limited to one parcel	Zoning	Allow in one zoning classification, but dimensional restrictions effectively limit possibility to one lot in the County and the owners do not keep poultry
Newport News	No	Zoning	Considered an agricultural use and no land is zone for agriculture
Danville	Yes--in select areas	Zoning and Animal Control	Zoning allows by right in residential areas with densities of 1 unit/5 acres, by special use in areas of min. 10,000 sq. ft./unit, although no one has applied to keep chickens in these areas. If a special use were approved, further regulation and enforcement would come through animal control
Rockingham Co.	No	Zoning	Classified as "domestic animals" which aren't permitted in residential zones (note they don't define "domestic animal" in the traditional sense)

## **A Proposal of Regulatory Specifics for Having Backyard Chickens in Harrisonburg**

We, the Harrisonburg Backyard Chicken Project (HBCP), propose that the city of Harrisonburg allow for the keeping of chickens (egg laying hens) in backyard space.

### **I. Benefits**

#### **A. Educational**

- a. Connects people to food sources.
- b. Helps reconnect us with the values of understanding food, lifecycles, natural rhythms, etc (there aren't very many practices available to urban/suburbanites to reconnect us to these things).
- c. We can get education systems involved and supportive (Community Preschool Teacher excited about chickens, farm to school food programs already on rise in valley and surrounding area).
- d. Encourage city 4-H kids to use this as an opportunity to raise animals.

#### **B. Healthy, Local, Humane Food**

- a. Minimizes food security risks by putting individuals in direct control of their food source.
- b. Chickens are one way to encourage local and organic food production.
- c. Fresh, healthy food available to families and neighbors (more nutrients and trace elements than factory farmed eggs, less potentially harmful trace residues [pesticides, antibiotics, etc]).
- d. Humane: more freedom allowed to backyard chickens than factory farm fowl.

#### **C. Community Building**

- a. Hundreds of other cities have found pro-chicken ordinances to be an intelligent, workable option (Charlottesville, VA; Madison, WI; Portland, OR; New York, NY).
- b. Helps promote the uniqueness, flavor, and openness of Harrisonburg.
- c. Appeals to a broad range: time honored, "patriotic" conservative Victory Garden concept as well as the progressive edge.
- d. May yield increase in positive interaction between neighbors.

#### **D. Environmental**

- a. Reduced waste stream that the city has to deal with (in leaf pick up, organic waste to dump).
- b. Environmental plusses: natural insectivores, chickens resurrect the barren american lawnscapes by turning such unused space into food.
- c. Lessening oil cost of foods (fuel independence).
- d. Low impact backyard food source, quite related to garden.

#### **E. Local Economy/History**

- a. Encourages local revenue circles: feed stores, hatcheries, hardware stores. Keeps the local economy loop healthy (buying feed for your hens from local sources versus feeding big agribusiness dollars by buying supermarket eggs).
- b. With expanding non-local, non-agricultural population in Harrisonburg, this promotes/preserves some of the cultural history of the area.

II. To encourage compliance, it is important to keep ordinances clear, comprehensive, and easily accessible. **These regulatory specifics are recommended:**

- A. Up to 6 chickens are allowable per lot.
- B. A permit for backyard chickens will be granted to those who pay a \$5.00 one-time processing and handling fee to the City of Harrisonburg, follow regulations, and receive education on being a good neighbor with chickens and addressing biosecurity concerns. Education materials received shall include the USDA publication "Backyard Biosecurity Practices to Keep Your Birds Healthy".
- C. No roosters are permitted.
- D. Require that chickens be enclosed and not permitted to "run at large" except in ones own yard if it is fully fenced and wings of chickens are clipped to eliminate flying.
- E. Nuisance reporting: noise, smells, public health concerns, attracting flies and rodents, and cleanliness of coops/disposal of manure are the result of improper care and maintenance. Active community led education campaigns, such as chicken keeping classes and coop tours, is another way in which to educate the public to ensure proper care and reduce the potential for nuisances.
- F. For every additional 1,000 sq. feet of property above a set minimum, 1 additional chicken may be added to the property.

**A successful ordinance will keep these issues in consideration:**

*It recognizes the importance of the ordinance being clearly stated and easily accessible to the public, which will help ensure compliance and reduce violations.*

*It satisfies the needs of most stakeholder groups and acknowledges that some stakeholders on both sides of the issue will be unwilling to compromise.*

*It does not discriminate against certain populations, such as those of lower incomes who can not afford high permitting fees, or those with smaller property sizes.*

*It allows for flexibility and provides choice, such as giving chicken keepers the right to choose their own coop design and building materials.*

*It allows for citizen input and participation in the ordinance forming process to assure that the ordinance fits the needs of, and is supported by the community.*

*It recognizes the role chickens can play in developing a more sustainable urban environment.*



USDA, APHIS, Veterinary Services  
Federal Building  
400 North 8th Street, Suite 726  
Richmond, VA 23219-4824  
Phone: (804) 343-2560  
Facsimile: (804) 343-2599  
E-mail: [VSVA@aphis.usda.gov](mailto:VSVA@aphis.usda.gov)

April 22, 2009

Mr. Hobey Bauhan, President  
Virginia Poultry Federation  
P.O. Box 2277  
Harrisonburg, VA 22801

Dear Mr. Bauhan:

I understand the City of Harrisonburg is considering an ordinance allowing residents to keep backyard poultry. In our free society, this is certainly the right of the individual within any parameters set by the City of Harrisonburg. Regardless, I do have some serious concerns about this.

The commercial poultry industry is extremely important to the local economy in Harrisonburg and Rockingham County. Rockingham County is one of the top poultry producing counties in the United States. Infectious and contagious avian diseases are a continual potential threat to this industry. Disease awareness and impeccable biosecurity mitigate this risk. Backyard poultry are very likely to increase the risk to the commercial industry in the Shenandoah Valley. Disease outbreaks in the commercial industry result in monetary losses to poultry companies and growers, and job losses on farms and in slaughter facilities, hatcheries and service industries.

In 1984, highly pathogenic H5N2 avian influenza (AI) caused extensive losses to your local poultry industry. In 2002, the USDA spent approximately 154 million dollars to contain, control and assist grower and industry recovery from an outbreak of low pathogenic H7N2 AI in commercial poultry in the Shenandoah Valley. The industry also incurred additional losses in the millions of dollars. The origin of this outbreak was linked to non-commercial poultry. In 2003, USDA spent approximately 176 million dollars to eradicate an outbreak of Exotic Newcastle Disease (END) in backyard and hobby poultry in the southwestern United States. Again, in 2006 in Shenandoah County in Virginia the USDA spent over a million dollars to eradicate low pathogenic H5N1 avian influenza in a commercial flock. The Commonwealth of Virginia also contributed resources to these disease control and eradication efforts.

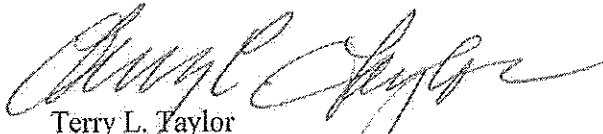
The diseases mentioned in the previous paragraph are viral diseases that are not endemic in this country. As you are well aware, there are endemic diseases of poultry that can also be devastating to the commercial industry. One example is Infectious Laryngotracheitis (ILT) which is not uncommon in non-commercial poultry and is a potential threat to commercial chickens. Another disease that is not uncommon in non-commercial poultry is Mycoplasma gallisepticum (MG). It poses a threat to both commercial chickens and turkeys. Chlamydiosis is another disease that is carried in wild birds and certain poultry that is a potential threat to turkeys and humans. Salmonella and Escherichia coli are well known pathogens carried by poultry that are a threat to the commercial industry and a food safety issue for people.



The natural reservoir of influenza viruses are wild waterfowl. Avian influenzas may be transmitted to domestic poultry when infected waterfowl land among unhoused poultry or fecal material from them is tracked into poultry coops or houses. AI, END, ILT and MG are easily spread from one premises to another on fomites (equipment, clothing, vehicles, people), wildlife (raccoons, opossums, wild birds) and vermin. People with contaminated clothing, shoes and even vehicles mingling in public places may be a source of contamination to people who work in commercial poultry operations.

The USDA has invested a great deal of money in helping to keep the commercial poultry industry in Virginia free of devastating infectious and/or contagious diseases. It is my belief that keeping backyard poultry in a geographic area with such a dense commercial poultry industry presents an unacceptable risk to that industry.

Sincerely,



Terry L. Taylor  
Area Veterinarian in Charge  
Virginia

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To file a complaint of discrimination, write USDA, Director, Office of Civil Rights, Room 326-W, Whitten Building, 1400 Independence Avenue, SW, Washington, DC 20250-9410 or call (202) 720-5964 (voice and TDD). USDA is an equal opportunity provider and employer.

**CHAPTER 2. ANIMAL CONTROL \***

**\*Editor's note:** An ordinance adopted Aug. 12, 2003, repealed Title 15, Chapter 2 in its entirety and supplied similar provisions to replace said chapter with new section 15-2-1 through 15-2-23. Former §§ 15-2-1 through 15-2-58 pertained to animal control and derived from Code 1973, §§ 3-1 through 3-10, and §§ 3-12 through 3-16; Ord. of 9-8-81; Ord. of 9-25-84; Ord. of 8-11-87; Ord. of 4-23-96 and Ord. of 8-13-02.

**Charter references:** Power of council with reference to animals and fowl, § 23.

**State law references:** Power of municipalities, Va. Code, § 15.180-870.

- § 15-2-1. Conditions of premises where animals are kept.
- § 15-2-2. Owner, custodian to maintain control of all animals.
- § 15-2-3. Nuisances caused by companion animals.
- § 15-2-4. Allowing animals to defecate on public property or on private property of others persons.
- § 15-2-5. Confinement of animals in vehicles prohibited.
- § 15-2-6. Vaccination of dogs and cats--Required.
- § 15-2-7. Same--Evidence required before issuance of dog license.
- § 15-2-8. Dog license tax.
- § 15-2-9. Same--tag evidencing licensing.
- § 15-2-10. Unauthorized removal of collar and tags.
- § 15-2-11. Impoundment of unvaccinated cats and dogs.
- § 15-2-12. Confinement and disposition of stray animals.
- § 15-2-13. Confinement of dog or cat that has bitten a person.
- § 15-2-14. Confinement or destruction of companion animals suspected of having rabies.
- § 15-2-15. Humane destruction of animals.
- § 15-2-16. Abandonment
- § 15-2-17. Cruelty to animals.
- § 15-2-18. Dangerous and vicious dogs.
- § 15-2-19. Hybrid canines.
- § 15-2-20. Keeping, transporting and trapping of animals.
- § 15-2-21. Adoption of state law.
- § 15-2-22. Violations of this chapter.
- § 15-2-23. Enforcement of chapter.

**Sec. 15-2-1. Conditions of premises where animals are kept.**

The party in possession or control of the premises where animals are kept shall ensure that buildings, pens or other areas where animals are kept, are maintained in a sanitary, healthy condition.

(Ord. of 9-9-03)

**Sec. 15-2-2. Owner, custodian to maintain control of all animals.**

- (a) The owner or custodian of any animal shall keep all of his animals under control at all times while such animals are within the city limits.
- (b) "Under control" shall mean direct physical control of the animal. Voice control shall not be construed as physical control. An animal on the real property of another, whether restrained or not, without the permission of the person in possession of such real property, shall be construed to be not under control.
- (c) Any person may, at any time, humanely take temporary control of any animal not under the

control of its owner or custodian and immediately notify the police department.

(d) This section shall not apply to police, search or rescue dogs engaged in training activities or on official duties.

(e) The first violation of this section with respect to spayed or neutered animal shall constitute a Class 4 misdemeanor. Subsequent violations of this section with respect to the same spayed or neutered animal within a one (1) year period, and all violations of this section with respect to non-spayed or non-neutered animals, shall constitute a class 3 misdemeanor, to be punished by a fine of not less than one hundred dollars (\$100.00) and not more than the maximum permissible by state law.

(Ord. of 9-9-03)

### **Sec. 15-2-3. Nuisances caused by companion animals.**

(a) The custodian of any companion animal shall ensure that such animal does not constitute a nuisance to neighbors through the generation of noise, odor, or by other means.

(b) The investigating officer may, at his discretion, take temporary control of any companion animal creating a nuisance to abate the nuisance, if the owner is unable to immediately so abate. Cost of caring for the animal while under the temporary control of the investigating officer shall be charged to the custodian of the animal. The investigating officer shall ensure that the animal is cared for in accordance with standards prescribed by the state veterinarian.

(c) It shall be prima facie evidence of "nuisance" if there have been three (3) complaints of nuisance from two (2) different individuals, representing at least two neighboring residences or businesses, within seven (7) days.

(Ord. of 9-9-03)

### **Sec. 15-2-4. Allowing animals to defecate on public property or on private property of others persons.**

It shall be unlawful for any owner or person in control of any animal to fail to immediately remove the fecal matter deposited by their animal on public property or on the property of another without the consent of the owner or the person having control of the premises. A violation of this section shall constitute a class 3 misdemeanor, to be punished by a fine of not less than one hundred dollars (\$100.00) and not more than the maximum permissible by state law. This section shall not apply to a person with a disability being accompanied by a service dog.

(Ord. of 9-9-03)

### **Sec. 15-2-5. Confinement of animals in vehicles prohibited.**

It shall be unlawful for any person to confine an animal in an enclosed vehicle so as to endanger it by exposure to excessive heat, cold or inadequate ventilation. Any animal control or other law enforcement officer may access the enclosed vehicle by any reasonable means, remove such endangered animal and take temporary control of such animal. Cost of caring for the animal while under the temporary control of the officer shall be charged to the custodian of the animal. The officer shall ensure that the animal is cared for in accordance with standards prescribed by the state veterinarian.

(Ord. of 9-9-03)

**Sec. 15-2-6. Vaccination of dogs and cats--Required.**

(a) It shall be unlawful for any person to own, keep or harbor any dog or cat over four (4) months of age unless such dog or cat is currently vaccinated by a licensed veterinarian against rabies.

(b) Upon vaccination of a dog or cat as required by this section, a certificate of vaccination, properly executed and signed by the licensed veterinarian performing the vaccination, shall be issued to the animal's owner by the veterinarian, who shall retain a copy of the certificate for his or her records.

(c) The certificate issued pursuant to paragraph (b) of this section shall certify that the dog or cat has been vaccinated in accordance with this chapter, and shall include the following information:

- (1) The date of the vaccination;
- (2) The date of expiration;
- (3) The rabies certificate number;
- (4) A brief description of the dog or cat and its name, age, sex and breed; and
- (5) The name and address of the animal's owner.

(d) The certificate issued pursuant to paragraph (b) of this section shall be preserved by the owner of the dog or cat and exhibited by the owner promptly on request for inspection by the animal control officer, other investigating officer, state veterinarian's representative or official of the department of health.

(e) The first violation of this section shall constitute a Class 4 misdemeanor. Subsequent violations on the same animal within a one (1) year period shall constitute a Class 3 misdemeanor.

(Ord. of 9-9-03)

**Sec. 15-2-7. Same--Evidence required before issuance of dog license.**

No dog license shall be issued by the city treasurer, or his or her agent, for any dog unless there is presented to the city treasurer, or his or her agent, at the time application for such license is made a current and valid certificate of rabies vaccination which includes all of the information specified in section 15-2-6. If such dog has been successfully spayed or neutered since such time that the vaccination was obtained, the owner shall provide proof of such. Any person giving false information in the procurement of a license pursuant to this section shall be guilty of a Class 1 misdemeanor.

(Ord. of 9-9-03)

**Sec. 15-2-8. Dog license tax.**

(a) There shall be an annual license tax imposed upon the ownership of dogs within the city in accordance with Sections 29-213.56 through 29-213.58 of the Code of Virginia as amended to date. The dog owner, if qualified, can request a tag for the duration of 1, 2 or 3 years. The tax shall be as follows:

The dog license tax for one (1) calendar year shall be:

For a male dog . . . \$10.00

For a female dog . . . 10.00

For an unsexed dog . . . 6.00

For a kennel, which shall mean ten (10) dogs or more . . . 30.00

In addition to the kennel fee of thirty dollars (\$30.00), each dog shall have separate tags of the correct gender at the above fee schedule.

The dog license tax for two (2) calendar years shall be:

For a male dog . . . \$19.00

For a female dog . . . 19.00

For an unsexed dog . . . 11.00

For a kennel, which shall mean ten (10) dogs or more . . . 55.00

In addition to the kennel fee of fifty-five dollars (\$55.00), each dog shall have separate tags of the correct gender at the above fee schedule.

The dog license tax for three (3) calendar years shall be:

For a male dog . . . \$27.00

For a female dog . . . 27.00

For a successfully spayed female or a successfully neutered male dog . . . 15.00

For a kennel, which shall mean ten (10) dogs or more . . . 85.00

In addition to the kennel fee of eighty-five dollars (\$85.00), each dog shall have separate tags of the correct gender at the above fee schedule.

Duplication of licenses . . . \$1.00

Said license tax shall be payable during the month of January of each year not later than January thirty-first and shall be paid to the treasurer of the city.

(b) If a dog becomes four (4) months of age or comes into the possession of any person between January first and November thirtieth of any year, the license tax for the current calendar year shall be paid by the owner.

(c) If a dog becomes four (4) months of age or comes into the possession of any person between December first and December thirty-first of any year, the license tax for the succeeding calendar year shall be paid by the owner and this license shall be valid from the date the license is purchased.

(d) No license tax shall be levied on any dog owner moving into the city who provides to the treasurer a valid dog license issued by another political subdivision of Virginia and a valid certificate of rabies vaccination. However, such owners will be required to obtain a current Harrisonburg dog license within sixty (60) days, for which a fee of one dollar (\$1.00) will be imposed.

(e) Refunds will not be issued for license(s) issued which become unnecessary after purchase.

(f) License tax is not transferable to other animals.

(g) No license tax shall be levied on any dog that is trained and serves as a guide dog for a blind person, that is trained and serves as a hearing dog for a deaf or hearing impaired person or that is trained and serves as a service dog for a mobility-impaired person. However, such owners will be required to have a current Harrisonburg dog license which will be issued without

charge by the treasurer upon receipt of the license application and satisfactory proof of the disability of the owner or custodian of the dog and the dog's training as required in this chapter. As used in this section, a hearing dog means a dog trained to alert its owner by touch to sounds of danger and sounds to which the owner should respond; and service dog means a dog trained to accompany its owner for the purpose of carrying items, retrieving objects, pulling a wheelchair, or other such activities of service or support.

(h) The first violation of this section with respect to spayed or neutered animal shall constitute a Class 4 misdemeanor. Subsequent violations of this section with respect to the same spayed or neutered animal within a one (1) year period, and all violations of this section with respect to non-spayed or non-neutered animals, shall constitute a Class 3 misdemeanor, to be punished by a fine of not less than one hundred dollars (\$100.00) and not more than the maximum permissible by state law.

(Ord. of 9-9-03)

#### **Sec. 15-2-9. Same--tag evidencing licensing.**

The owner of any dog shall attach to the collar or harness of such dog the current license tag issued by the treasurer. Such collar or harness and tag shall be worn by the dog at all times such dog is off the premises of the owner.

(Ord. of 9-9-03)

#### **Sec. 15-2-10. Unauthorized removal of collar and tags.**

It shall be unlawful for any person, except the owner or custodian to remove or cause to be removed the collar, license tag, rabies tag or any identification tag from a companion animal.

(Ord. of 9-9-03)

#### **Sec. 15-2-11. Impoundment of unvaccinated cats and dogs.**

(a) It shall be the duty of the animal control officer or other investigating officer to take temporary control of any cat or dog which has not been vaccinated as provided in section 15-2-6. Cost of caring for the animal while under the temporary control of the investigating officer shall be charged to the custodian of the animal. The investigating officer shall ensure that the animal is cared for in accordance with standards prescribed by the state veterinarian and state law.

(b) Any dog or cat impounded under this section which is not rabid or suspected of being rabid may be released from impoundment at any time, once the owner (i) pays the cost of caring for the animal and any other applicable fines or fees, and (ii) provides proof of a current rabies vaccination, and (iii) obtain all licenses required under this chapter.

(Ord. of 9-9-03)

#### **Sec. 15-2-12. Confinement and disposition of stray animals.**

Section 3.1-796.96 of the Code of Virginia is adopted as if fully set forth herein, and as from time to time amended by the General Assembly, except that, in the event of a declared emergency, whether declared by federal, state or local authority, the minimum holding period shall be extended two (2) weeks in addition to that required by state law.

(Ord. of 9-9-03)

**Sec. 15-2-13. Confinement of dog or cat that has bitten a person.**

Upon information to the Harrisonburg Police Department that a dog or cat has bitten a person, it shall be the duty of the investigating officer upon ascertaining the identity of such animal, to direct it to be confined for a period of ten (10) days, such confinement to be either (i) in the SPCA kennel, or; (ii) in a kennel approved by the animal control officer, or; (iii) by the owner if all provisions of Title 15, Chapter 2 of the Harrisonburg City Code have been complied with, with respect to the animal. The person who owns or controls such dog or cat shall bear the cost of such confinement. It shall further be the duty of the investigating officer, after directing that such dog or cat be confined, to notify the local health official of such confinement. The animal may be released to its owner only after the completion of the confinement period required by this section and the approval of the health department official.

(Ord. of 9-9-03)

**Sec. 15-2-14. Confinement or destruction of companion animals suspected of having rabies.**

(a) Dogs and cats found within the city suspected of having rabies or exhibiting the common symptoms of such disease by an animal control officer, other investigating officer, state veterinarian's representative or official of the department of health shall be impounded as directed by the director of health for such time as may be necessary to determine whether they are afflicted with rabies.

(b) At the time any such dog or cat, is impounded, an attempt shall be made to discover whether or not the animal has been vaccinated previously against rabies. If it is found that such dog or cat and has not been vaccinated effectively, then such animal shall be so vaccinated on the last day of the observation period described in paragraph (a) above.

(c) The animal control officer, law enforcement officer, state veterinarian's representative or official of the department of health may cause to be destroyed humanely any companion animal which, in his opinion, has rabies or is in need of confinement pursuant to paragraph (a) above but such confinement is impossible or impracticable.

(d) All expenses in connection with the provision of this section shall be borne by the owner of the dog or cat in question.

(Ord. of 9-9-03)

**Sec. 15-2-15. Humane destruction of animals.**

Nothing in this chapter shall prohibit the immediate destruction of a critically injured, critically ill or unweaned animal by an animal control officer or law enforcement officer for humane purposes. Any animal destroyed pursuant to the provisions of this section shall be euthanized by one of the methods prescribed or approved by the state veterinarian.

(Ord. of 9-9-03)

**Sec. 15-2-16. Abandonment**

(a) No owner of an animal shall abandon such animal. For the purpose of this section,

abandonment shall include:

- (1) Leaving any dog, cat or other domestic or companion animal in any public place including any public right-of-way, highway, road or street or on the property of another; or
- (2) An owner's failure to do the following within the time limit set forth in Section 3.1-796.96 of the Code of Virginia, after receiving notice that his or her domestic or companion animal has been impounded:
  - a. Redeem said animal and pay impounding and veterinary fees; or
  - b. Surrender said animal to the city in writing and pay impounding and veterinary fees.
- (b) Any person violating this section shall be guilty of a Class 3 misdemeanor. A second conviction constitutes a Class 2 misdemeanor.

(Ord. of 9-9-03)

### **Sec. 15-2-17. Cruelty to animals.**

(a) Any person who:

- (1) Overrides, overdrives, overloads, tortures, ill-treats, abandons, willfully inflicts inhumane injury or pain not connected with bona fide scientific or medical experimentation, or cruelly or unnecessarily beats, maims, mutilates, or kills any animal, whether belonging to himself or another; or
- (2) Deprives any animal of necessary food, drink, shelter or emergency veterinary treatment; or
- (3) Willfully sets on foot, instigates, engages in, or in any way furthers any act of cruelty to any animal; or
- (4) Carries or causes to be carried in or upon any vehicle, vessel or otherwise any animal in a cruel, brutal, or inhumane manner, so as to produce torture or unnecessary suffering; or
- (5) Causes any of the above things, or being the owner of such animal permits such acts to be done by another, shall be guilty of a Class 1 misdemeanor.

(b) Any person who:

- (1) Tortures, willfully inflicts inhumane injury or pain not connected with bona fide scientific or medical experimentation, or cruelly and unnecessarily beats, maims, mutilates or kills any animal whether belonging to himself or another; or
- (2) Instigates, engages in, or in any way furthers any act of cruelty to any animal set forth in clause (1) of this subsection; or
- (3) Causes any of the actions described in subdivisions (1) and (2) of this subsection, or being the owner of such animal permits such acts to be done by another; and

has been within five (5) years convicted of a violation of this subsection or subsection (a), shall be guilty of a Class 6 felony if the current violation or any previous violation of this subsection or subsection (a) resulted in the death of an animal or the euthanasia of an animal based on the recommendation of a licensed veterinarian upon determination that such euthanasia was necessary due to the condition of the animal, and such condition was a direct result of a violation of this subsection or subsection (a).

(c) Any person who abandons any dog, cat or other domesticated animal in any public place including the right-of-way of any public highway, road or street or on the property of another



shall be guilty of a Class 3 misdemeanor.

(d) Nothing in this section shall be construed to prohibit the dehorning of cattle.

(e) For the purposes of this section, the word animal shall be construed to include birds and fowl.

(f) This section shall not prohibit authorized wildlife management activities or hunting, fishing or trapping as regulated under other titles of the Code of Virginia including, but not limited to Title 29.1, or to farming activities as provided under Code of Virginia Title 3.1 or regulations promulgated thereto.

(g) In addition to the penalties provided in subsection (a), the court may, in its discretion, require any person convicted of a violation of subsection (a) to attend an anger management or other appropriate treatment program or obtain psychiatric or psychological counseling. The court may impose the costs of such a program or counseling upon the person convicted.

(h) It is unlawful for any person to kill a domestic dog or cat for the purpose of obtaining the hide, fur or pelt of the dog or cat. A violation of this subsection shall constitute a Class 1 misdemeanor. A second or subsequent violation of this subsection shall constitute a Class 6 felony.

(i) Any person who tortures, willfully inflicts inhumane injury or pain not connected with bona fide scientific or medical experimentation or cruelly and unnecessarily beats, maims or mutilates any dog or cat that is a companion animal whether belonging to himself or another and (ii) as a direct result causes the death of such dog or cat that is a companion animal, or the euthanasia of such animal on the recommendation of a licensed veterinarian upon determining that such euthanasia was necessary due to the condition of the animal, shall be guilty of a Class 6 felony.

(Ord. of 9-9-03)

### **Sec. 15-2-18. Dangerous and vicious dogs.**

(a) As used in this section, "dangerous dog" means a canine or canine crossbreed which has bitten, attacked, or inflicted injury on a person or companion animal, or killed a companion animal; however, when a dog attacks or bites another dog, the attacking or biting dog shall not be deemed dangerous if (i) no serious physical injury as determined by a licensed veterinarian has occurred to the other dog as a result of the attack or bite, (ii) if both dogs are owned by the same person. No dog shall be found to be a dangerous dog as a result of biting, attacking or inflicting injury on another dog while engaged with an owner or custodian as part of lawful hunting or participating in an organized, lawful dog handling event.

"Vicious dog" means a canine or canine crossbreed that has (i) killed a person; (ii) inflicted serious injury to a person, including multiple bites, serious disfigurement, serious impairment of health, or serious impairment of a bodily function; or (iii) continued to exhibit the behavior that resulted in a previous finding by a court or an animal control officer as authorized by local ordinance pursuant to the provisions of subsection (e), that it is a dangerous dog, provided that its owner has been given notice of that finding.

(b) The animal control officer may determine, after investigation, whether a dog is a dangerous dog. If the animal control officer determines that a dog is a dangerous dog, he may order the animal's owner to comply with the provisions of the ordinance. If the animal's owner disagrees with the animal control officer's determination, he may appeal the determination to the general district court for a trial on the merits. If the animal control officer determines that the owner or custodian can confine the animal in a manner that protects the public safety, he may permit the owner or custodian to confine the animal until such time as evidence shall be heard and a verdict rendered. The court, through its contempt powers, may compel the owner, custodian or harbinger of the animal to produce the animal. If, after hearing the evidence, the court finds that

the animal is a dangerous dog, the court shall order the animal's owner to comply with the provisions of the ordinance. If, after hearing the evidence, the court finds that the animal is a vicious dog, the court shall order the animal euthanized in accordance with the provisions of Code of Virginia§3.1-796.119.

(c) No animal shall be found to be a dangerous dog or vicious dog if the threat, injury or damage was sustained by a person who was:

- (1) Committing, at the time, a crime upon the premises occupied by the animal's owner or custodian,
- (2) Committing, at the time, a willful trespass or other tort upon the premises occupied by the animal's owner or custodian, or
- (3) Provoking, tormenting, or physically abusing the animal, or can be shown to have repeatedly provoked, tormented, abused, or assaulted the animal at other times. No police dog which was engaged in the performance of its duties as such at the time of the acts complained of shall be found to be a dangerous dog or a vicious dog. No animal which, at the time of the acts complained of, was responding to pain or injury, or was protecting itself, its kennel, its offspring, or its owner or owner's property, shall be found to be a dangerous dog or a vicious dog.

(d) The owner of any animal found to be a dangerous dog shall, within ten (10) days of such finding, obtain a dangerous dog registration certificate from the treasurer for a fee of fifty dollars (\$50.00) in addition to other fees that may be authorized by law. The treasurer shall also issue the owner a uniformly designed tag which identifies the animal as a dangerous dog. The owner shall affix the tag to the animal's collar and ensure that the animal wears the collar and tag at all times. All certificates obtained pursuant to this subdivision shall be renewed annually for the same fee and in the same manner as the initial certificate was obtained.

(e) All certificates or renewals thereof required to be obtained under this section shall only be issued to persons eighteen (18) years of age or older who present to the animal control officer:

- (1) Satisfactory evidence of the animal's current rabies vaccination and dog registration required under section 15-2-9, and;
- (2) Satisfactory evidence that the animal is and will be confined in a proper enclosure or inside the owner's residence. The animal may be temporarily enclosed in the owner's fenced-in yard provided the animal is muzzled and the fence is of adequate height and design to keep the animal in the yard, and;
- (3) A color photograph clearly showing the animal, and;
- (4) Satisfactory evidence the animal has been permanently identified by means of a tattoo on the inside thigh or by electronic implantation;
- (5) Their residence is and will continue to be posted with clearly visible signs warning both minors and adults of the presence of a dangerous dog on the property.

(f) While on the property of its owner, an animal found to be a dangerous dog shall be confined indoors or in a securely enclosed and locked structure of sufficient height and design to prevent its escape or direct contact with or entry by minors, adults, or other animals. The structure shall be designed to provide the animal with shelter from the elements of nature. When off its owner's property, an animal found to be a dangerous dog shall be kept on a leash and muzzled in such a manner as not to cause injury to the animal or interfere with the animal's vision or respiration, but so as to prevent it from biting a person or another animal.

(g) If the owner of an animal found to be a dangerous dog is a minor, the custodial parent or legal guardian shall be responsible for complying with all requirements of this section.

(h) After an animal has been found to be a dangerous dog, the animal's owner shall

immediately, upon learning of same, notify the local animal control authority if the animal

- (1) Is loose or unconfined;
- (2) Bites a person or attacks another animal;
- (3) Is sold, given away, or dies; or
- (4) Has been moved to a different address.

(i) The owner of any animal which has been found to be a dangerous dog who willfully fails to comply with the requirements of the ordinance shall be guilty of a Class 1 misdemeanor.

(j) All fees collected pursuant to the ordinance, less the costs incurred by the animal control authority in producing and distributing the certificates and tags required by the ordinance, shall be paid into a special dedicated fund in the treasury of the locality for the purpose of paying the expenses of any training course required under Code of Virginia § 3.1-796.104:1.

(k) All certificates or renewals thereof required to be obtained under this section shall present satisfactory evidence that the animal has been neutered or spayed.

(l) All certificates or renewals thereof required under this section shall only be issued to persons who present satisfactory evidence that the owner has liability insurance coverage, to the value of at least fifty thousand dollars (\$50,000.00), that covers animal bites.

(Ord. of 9-9-03)

### **Sec. 15-2-19. Hybrid canines.**

(a) Definitions as used in this section:

*Adequate confinement* means that, while on the property of its owner and not under the direct supervision and control of the owner or custodian, a hybrid canine shall be confined in a humane manner in a securely enclosed and locked structure of sufficient height and design to

(1) Prevent the animal's escape; or if the hybrid canine is determined to be a dangerous dog pursuant to 3.1-796.93:1, the structure shall prevent direct contact with any person or animal not authorized by the owner to be in direct contact with the hybrid canine, and

(2) Provide a minimum of one hundred (100) square feet of floor space for each adult animal. Tethering of a hybrid canine not under the direct supervision and control of the owner or custodian shall not be considered adequate confinement.

*Hybrid canine* means any animal which at any time has been or is permitted, registered, licensed, advertised or otherwise described or represented as a hybrid canine, wolf or coyote by its owner to a licensed veterinarian, law-enforcement officer, animal control officer, official of the department of health, or state veterinarian's representative.

*Responsible ownership* means the ownership and humane care of a hybrid canine in such a manner as to comply with all laws and ordinances regarding hybrid canines and prevent endangerment by the animal to public health and safety.

(b) The owner of a hybrid canine shall, by the time the animal is four (4) months old, obtain a hybrid canine registration certificate from the treasurer for a fee of twenty-five dollars (\$25.00) if the animal is spayed or neutered, fifty dollars (\$50.00) if not, in addition to other fees that may be authorized by law. The treasurer shall also issue the owner with a uniformly designed tag which identifies the animal as a hybrid canine in lieu of the dog license required in section 15-2-8. The owner shall affix the tag to the animal's collar and ensure that the animal wears the collar and tag at all times. All certificates obtained pursuant to this subdivision shall be renewed annually for the same fee and in the same manner as the initial certificate was obtained.

(c) All certificates or renewals thereof required to be obtained under this section shall only be issued to persons eighteen (18) years of age or older who present to the animal control officer:

- (1) Satisfactory evidence of the animal's current rabies vaccination, and;
- (2) Satisfactory evidence that the animal is and will be confined in a proper enclosure, inside the owner's residence or in the owner's fenced-in yard, with the fence being of adequate height and design to keep the animal in the yard, and;
- (3) A color photograph clearly showing the animal, and;
- (4) Satisfactory evidence the animal has been permanently identified by means of a tattoo on the inside thigh or by electronic implantation.

(d) The owner of any hybrid canine who willfully fails to comply with the requirements of this chapter shall be guilty of a Class 3 misdemeanor for the first violation and a Class 1 misdemeanor for a second or a subsequent violation.

(e) All fees collected pursuant to this chapter, less the costs incurred by the treasurer in producing and distributing the certificates and tags required by this chapter, shall be paid into a special dedicated fund in the city treasury for the purpose of paying the expenses of any training course required under Code of Virginia § 3.1-796.104:1.

(Ord. of 9-9-03)

#### **Sec. 15-2-20. Keeping, transporting and trapping of animals.**

(a) Transportation or importation of wildlife into the city from other areas is prohibited, unless such animal is subject to a permit or license issued by an appropriate authority.

(b) Prior to utilizing any trap set for the capture of wild or fur bearing animal, the person acquiring such trap must first acquire any required permit issued by the Commonwealth of Virginia Department of Game and Inland Fisheries pursuant to Virginia Code, Section 29-300.1, as amended. A permit is not required for capture of stray domestic animals, mice, rats or other nuisance rodents, skunks, rabbits or groundhogs upon private property.

(c) No person may interfere with the lawful use of an animal trap. This subsection shall not apply to law enforcement officials in the performance of their duties. Traps placed either on city property or private property without the written consent of the property owner shall be confiscated and become the property of the city.

(d) Each trap must be clearly marked with the trapper's name, address and telephone number.

(e) Steel leg hold traps may not be used within the city, unless permitted by state law.

(f) All domesticated animals trapped off the property of their owner shall be turned over to and impounded by the animal control officer or other investigating officer.

(g) Any wildlife captured within the city shall be released on site if their capture was inadvertent or disposed of in a method approved of by the Virginia Department of Game and Inland Fisheries.

(Ord. of 9-9-03)

#### **Sec. 15-2-21. Adoption of state law.**

Pursuant to the provisions of Section 3.1-796.94 of the Code of Virginia, 1950, as amended from time to time, all of the provisions and requirements of the Comprehensive Animal Laws of the Code of Virginia, except those which by their very nature cannot have application within the city, are

hereby adopted and made part of this chapter as if fully set out herein, and are hereby made applicable within the city, unless the subject and content of such state law is specifically addressed in this chapter. It shall be unlawful for any person, within the city, to violate, fail, neglect or refuse to comply with any section of the Comprehensive Animal Laws of the Code of Virginia, as adopted by this section.

(Ord. of 9-9-03)

**Sec. 15-2-22. Violations of this chapter.**

All violations of this chapter shall be unlawful acts and constitute a Class 4 misdemeanor, unless otherwise provided in this chapter.

(Ord. of 9-9-03)

**Sec. 15-2-23. Enforcement of chapter.**

The provisions of this Chapter 2, shall be enforced by the police department through the animal control officer and other law enforcement officers. Any person who shall interfere with or obstruct or resist any officer in the discharge of his rights, powers and duties as authorized and prescribed by law shall be punished in accordance with state law.

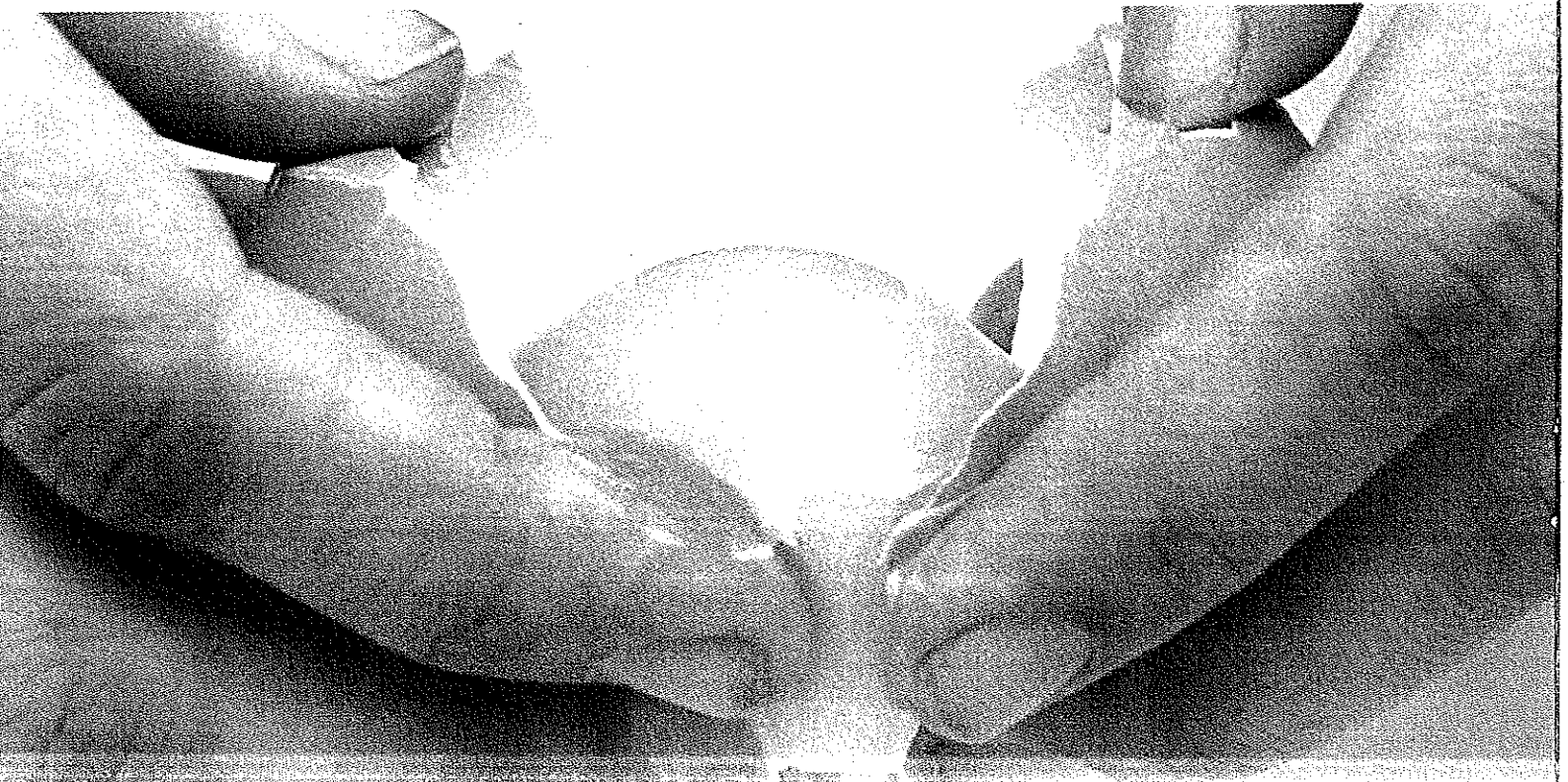
(Ord. of 9-9-03)



# CITY CHICKENS

One family proves that having fresh eggs isn't just for farmers in the country.

BY NATALIE ERMANN RUSSELL • PHOTOS BY CAROLE TOPALIAN



**B**ig commotion in Susie Matheson's downtown Charlottesville backyard means one of two things: Either one of her three hens has just laid an egg and is announcing her gift, or one of the dogs has gotten into the chicken house again.

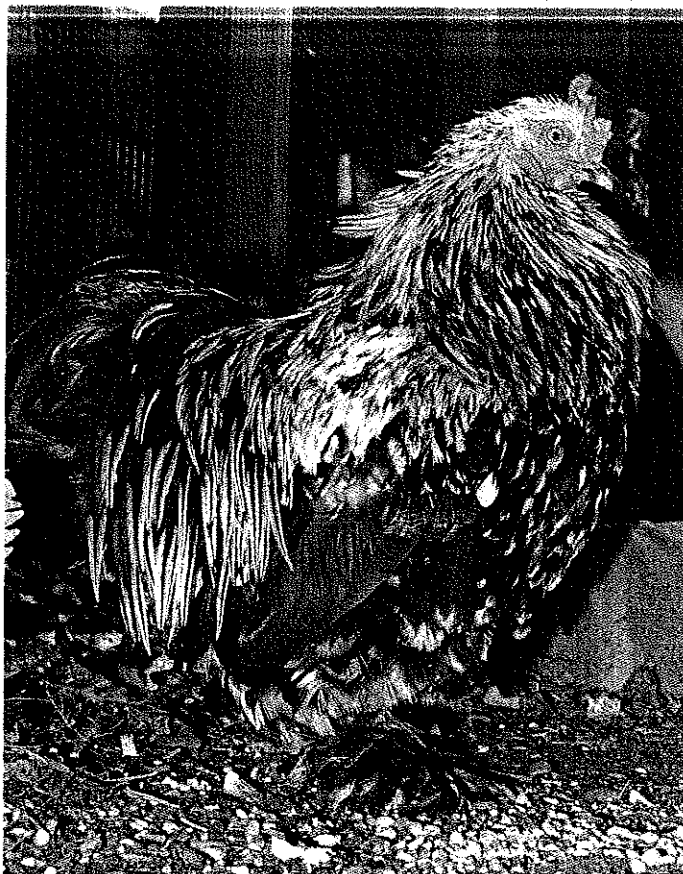
The former is a beautiful testament to nature's wonder: a perfect brown oval, with a clean, rich flavor that's incomparable to the often weeks-old specimens you get in the grocery store. Fresh as fresh can be—hours, if not minutes, old. The yolk is a beautiful deep yellow, almost orange. And the yolk and white separate so easily, as if each knows its role and when it is time to part ways.

Matheson and her husband, Murdoch, are devoted chicken owners partly because of those fabulous eggs, but also because their children, Helen, 8, Murdoch, 7, and Matilda, 5, have the chance to learn about foods beyond the aisles of the grocery store. "I thought it would be great for the kids to see where eggs come from," she says. And they (along with the neighbors' kids) love to hold and stroke the birds as if they were any other fluffy, lovable pet.

**M**atheson didn't grow up with chickens, never had a reason to connect with them, but as an adult has by chance moved into several homes with existing coops. "I must have some kind of weird chicken vibe that attracts them to me," she says.

These particular chickens have been with Matheson for four years. She would like to bring in new ones, since younger chickens produce a greater abundance of eggs (production usually peaks around a year or two). But getting an established flock to accept new chickens is difficult, which is why many small-flock owners order all new baby chicks at one time (that, and because it tends to be cheaper). "That's the thing with chickens. If you don't constantly introduce new ones, they'll peck any new ones to death," she says. "It's the *real* pecking order."

Her current flock of bantams and Rhode Island Reds arrived just one day old, from mail-order hatchery Murray McMurray (see sidebar



on page 17). When buying from hatcheries, you often have to order at least 25 chicks so they can keep each other warm. The selection online is great: breeds that give you white, brown, green, or blue eggs. (You can usually determine if your chickens will lay brown eggs if they have red ear lobes; white ear lobes indicate white eggs. And Araucanas will give you blue-green eggs.)

"If you order from a hatchery, you can get the chicks already sexed, so you know they'll be hens," says Carrie Swanson, Albemarle county agriculture agent with the Virginia Cooperative Extension. But be forewarned: There are often a few dead ones upon arrival, so be sure you open the box in front of the post office clerk (a witness), so you can get a refund. (In fact, ask about a company's policy regarding DOA chicks before ordering.) Once they arrive, you have to care for them like babies, keeping them warm with a heat lamp and sometimes hand feeding them honey and water.

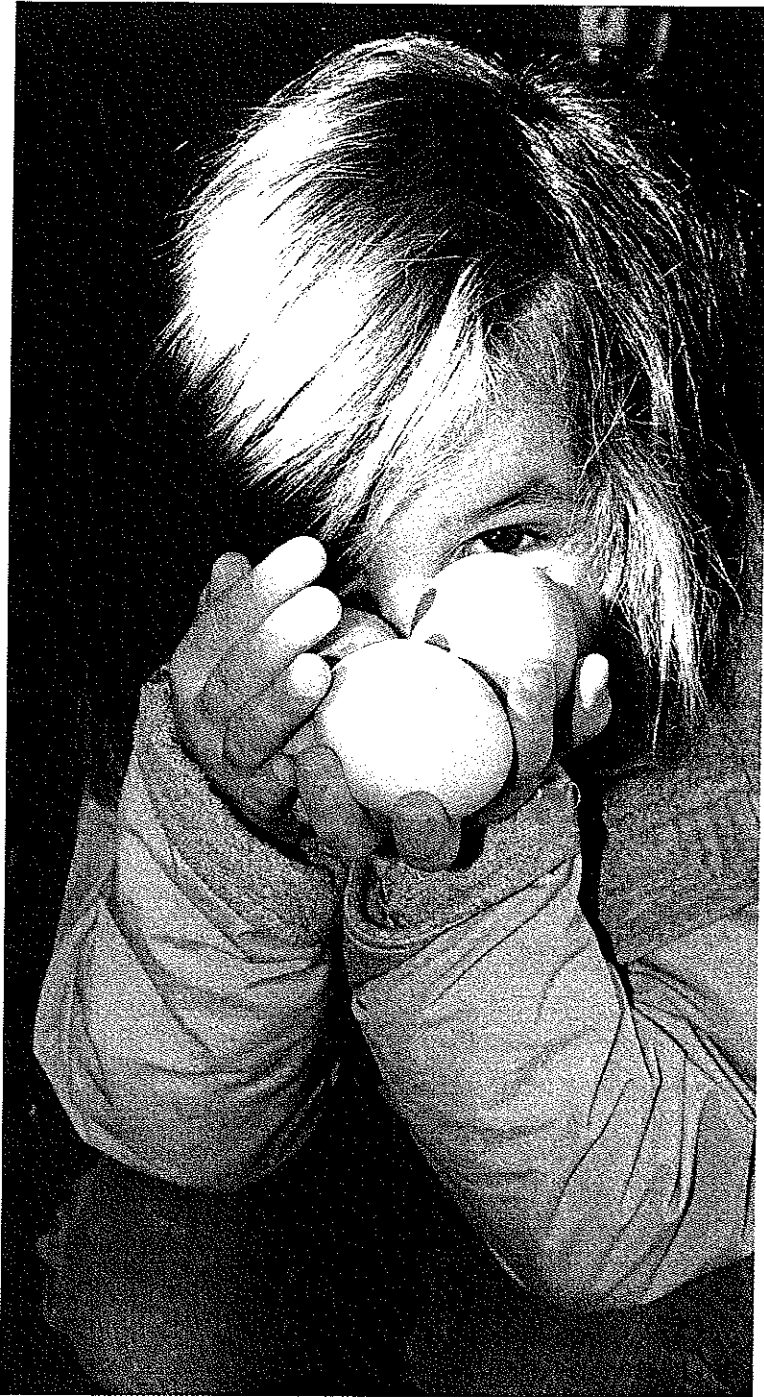
To get your first egg, it'll take 5 to 12 months, depending on when your chick hatched in relation to spring, which is when the first eggs arrive. Because of this, Matheson suggests getting chicks in the summer. That way, you'll have eggs by the following spring. "If you get them in spring," she says, "you'll have to wait a whole year."

In the summer, the Mathesons' hens average about an egg each daily; in the winter, about one among the three of them. The chickens need sunlight in order to produce eggs, and of course daylight is limited during the short days of winter.

For the eggs to be good—with sturdy, healthy shells—the birds need a balanced diet, which is best achieved with commercial feeds, says Swanson. Matheson opts for organic, not because of a discernable difference in the resulting eggs' flavor (there is none), but because it just feels good knowing she's feeding her family—and chickens—quality products. She also gives them kitchen scraps (tomatoes a little too ripe for human consumption), which makes her feel good about less waste, and makes the birds happy and healthy. Treats are great, says Swanson, as long as they're not the main staple of the diet. >

Opposite, from top: Matilda and Susie Matheson feed the chickens; the color of a fresh egg yolk is unparalleled. This page: Ready for its closeup.





Mother and daughter stop to pose as they do various chores around the yard. Top right: The family dogs, named Rooster (left) and Angus, are on their best behavior.



## Before Getting Chickens...

- **Check with local ordinances.** Many towns, cities, or even neighborhoods have restrictions on birds, especially roosters (because of the early morning cock-a-doodle-dooing).
- **Consult with your neighbors.** You want to iron out any potential wrinkles before it's too late.
- **Do research.** Become familiar with the various breeds—not just their looks but the characteristics of their eggs, meat quality (if that's something you'll be doing), and temperament. Also look into chicken coop styles and designs, so you can be prepared and understand the full cost of the undertaking.



Designed to look like the little brother of the backyard shed, the Mathesons' coop incorporates leftover materials from the shed's construction: metal roofing, white siding, and a green shutter. The shutter opens up to expose where the chickens have laid their eggs, like a door on a game show revealing what was just won.

Matheson saw the design for the coop while visiting California, and it includes an elevated nesting box where the hens lay eggs. Giving the chickens a dark, out-of-the-way spot is a crucial ingredient for egg-laying success. Just behind that but still inside the coop, the birds roost at night atop suspended tree branches. The best part about the setup is that it allows for excrement to fall down to the ground, meaning the whole operation needs to be cleaned out only a few times a year.

There's also a covered "run," which provides space to roam, since the flock can't always be let free to wander the yard (because of the family dogs). The metal roof is important because wild birds fly (and defecate from) overhead, making backyard chickens susceptible to their diseases, including bird flu. "Plus, if you cover it, it doesn't smell half as much," Matheson says. "In the city, the odor can get really bad, especially when it rains."

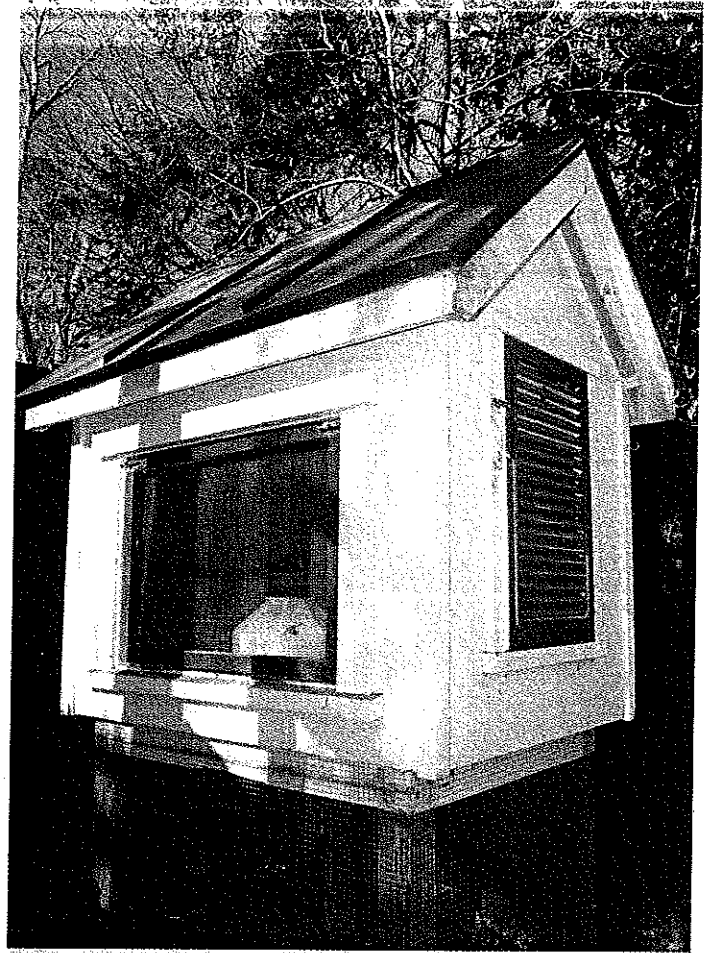
Chickens aren't all dumb. "Some say with commercial breeds, the common sense has been bred out of them," says Swanson. "But some of the breeds promoted in backyard situations have survival instincts and are more intelligent."

Matheson agrees that the bad rep isn't completely warranted. "Chickens are smart on a lot of levels," she says. "They alerted me when my dogs got out of the yard, and they do announce when their eggs are laid." Plus, the flock's group activities are fascinating. She likes to send the kids out to observe their dust baths, where they dance around, kicking up dirt as part of a grooming ritual. "You can sit there and just watch them—it's so interesting," she says.

Her dogs, on the other hand, aren't quite as enamored. They have had a hate-love-hate relationship with the birds, even though she gave one of her two dachshunds the name Rooster, presumably to make him believe himself to be kin to the other family pets. They've gotten into the hens a few times, and ripped the poor creatures to shreds. It was an emotional ordeal for Matheson, who says she had second thoughts each time, about the trials and tribulations of chicken rearing.

In fact, it's not all the beautiful and wholesome stuff of quaint photographs (see the front cover of this magazine). Chickens are dirty creatures, they kick out the mulch from your garden beds, and they can stink to high heaven. And when they're really young, they go through what Matheson calls their "teenage years": rebellion, no egg-laying (like a tenant who doesn't pay rent, she says), and high maintenance.

But after the tough period, things get better. "They are actually one of the easier types of animals because once you get through the beginning, they pretty much take care of themselves," she says. And with all the fresh eggs and life lessons they offer the children, you could say these chickens take care of the Mathesons as well. ☺



## Chicken Resources

- **Countryside Natural Products** ([www.countrysidenatural.com](http://www.countrysidenatural.com)). Located in Farmville, Virginia, Countryside sells all-natural feed, which can be picked up (to avoid shipping charges) or can be delivered by truck (also for less than shipping).
- **Southern States and Tractor Supply Company.** Local feed stores like these will often do a bulk order of chicks in the spring through a large hatchery. Inquire about participating.
- **Albemarle's 4-H** (part of the Virginia Cooperative Extension). Every spring, the 4-H has leftover eggs from a school embryology project. Through the Extension, you can obtain the resulting chicks (call 434-872-4580 and ask for the 4-H agent).
- **Craigslist.org.** Under "For Sale," click on "Farm + Garden" and you may find chickens or chicken-related equipment (like coops).
- **Mail order hatcheries:** Murray McMurray Hatchery ([www.mcmurrayhatchery.com](http://www.mcmurrayhatchery.com)), Privett Hatchery ([www.privetthatchery.com](http://www.privetthatchery.com)), Country Hatchery ([www.countryhatchery.net](http://www.countryhatchery.net)).
- **Basic info:** [www.urbanchickens.org](http://www.urbanchickens.org), [www.suburbanchicken.org](http://www.suburbanchicken.org).